

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

\_\_\_\_\_  
In re: Chapter 7  
GOODMAN NETWORKS, INC., Case No.  
Debtor. 22-31641 (MVL)  
\_\_\_\_\_

VIDEOTAPED DEPOSITION OF  
CHAPTER 7 TRUSTEE SCOTT SEIDEL  
VOLUME II

DATE: Thursday, September 14, 2023  
TIME: 1:11 p.m. Central Daylight Time  
LOCATION: Remote Proceeding  
Memphis, TN 38103  
REPORTED BY: Shawn Byron Hunt  
JOB NO.: 6106194

EXHIBIT  
BH 74

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1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: Good afternoon. We  
3 are now on the record. The time is approximately 1:11  
4 p.m. on September 14, 2023.

5 Go ahead there, Shawn.

6 THE REPORTER: Good afternoon. My name  
7 is Shawn Hunt; I am the reporter assigned by Veritext  
8 to take the record of this proceeding. We are now on  
9 the record at 1:11 p.m. Central Time.

10 This is the deposition of Chapter 7  
11 Trustee Scott Seidel in the case of Goodman Networks  
12 d/b/a Goodman Solutions on September the 14th, 2023,  
13 via Zoom.

14 I am a notary authorized to take  
15 acknowledgments and administer oaths in Tennessee.  
16 Parties agree that I will swear in the witness  
17 remotely.

18 Additionally, absent an objection on  
19 the record before the witness is sworn, all parties  
20 and the witness understand and agree that any  
21 certified transcript produced from the recording of  
22 this proceeding:

23 - is intended for all uses permitted  
24 under applicable procedural and

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1                   evidentiary rules and laws in the  
2                   same manner as a deposition recorded  
3                   by stenographic means; and  
4                   - shall constitute written stipulation  
5                   of such.

6                   At this time will everyone in  
7                   attendance please identify yourself for the record.

8                   MR. HILLYER: Cam Hillyer and Adam  
9                   Langley on behalf of FedEx.

10                  MR. RUKAVINA: Davor Rukavina and  
11                  Thomas Berghman on behalf of Mr. Seidel.

12                  MR. SEIDEL: Scott Seidel. I'm the  
13                  trustee.

14                  MR. SCHOTTENSTEIN: Noah Schottenstein  
15                  for ARRIS.

16                  MR. GUFFY: Philip Guffy and Brian  
17                  Clarke for UMB Bank National Association as indentured  
18                  trustee and the majority noteholder group.

19                  THE REPORTER: Okay. Is that everyone?  
20                  Okay. Thank you. Hearing no objection, I will now  
21                  swear in the witness.

22                  If you would, please raise your right  
23                  hand.

24                  //



1 WHEREUPON,

2 SCOTT SEIDEL,

3 called as a witness and having been first duly sworn  
4 to tell the truth, the whole truth, and nothing but  
5 the truth, was examined and testified as follows:

6 THE REPORTER: All right. You may  
7 proceed.

8 EXAMINATION

9 BY MR. HILLYER:

10 Q All right. Good afternoon, Mr. Seidel.  
11 Thank you so much for coming back.

12 A Good afternoon.

13 Q So I'm going to try to pick up midstride  
14 where we left it when we continued it yesterday. I  
15 believe you had just been asked about the risk factors  
16 that you had assessed in your business judgment  
17 related to the Prosperity payments. Do you remember  
18 that?

19 A Sure.

20 Q Okay. And you had stated that a -- you had  
21 referred to a Ninth Circuit ruling and a Judge Larson  
22 ruling. Do you remember that?

23 A I do.

24 Q Okay. To the best of your knowledge, has

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1 Prosperity Bank ever asserted any Ninth Circuit case  
2 law defense?

3 A I believe they have.

4 Q Okay. And where do you recall seeing --

5 A It would be --

6 Q -- that defense?

7 A Sorry. It would be in conversations with  
8 counsel.

9 Q Conversations you had with counsel?

10 A No. Conversations my counsel may have had  
11 with their counsel with regard to Ninth Circuit  
12 authority related to Prosperity accounts.

13 Q Okay. For clarity, so are you saying that  
14 Prosperity Bank told your attorney and your attorney  
15 told you about a Ninth Circuit ruling?

16 A That occurred.

17 Q Okay. And when did that happen?

18 A I believe early on in all of this. But I  
19 don't know the date.

20 Q Let me ask you: Has Prosperity Bank ever  
21 asserted a Ninth Circuit defense to the Prosperity  
22 payments claim in any pleading they have filed?

23 A Not that I know of.

24 Q Okay. Do you know why that they would not

1 assert in a pleading, but would assert it orally with  
2 your counsel?

3 MR. RUKAVINA: Objection. Speculation.

4 A No.

5 Q Okay. And so I'm going to ask you -- I  
6 believe I asked you. Do you know what the case name  
7 is?

8 A It escapes me. And I could have looked at  
9 it, but it's not with me.

10 Q Okay. What are the underlying -- and I'm  
11 not asking you to go through an entire reported  
12 opinion. What are the underlying facts? What is the  
13 claim, the facts, and the holding of that case?

14 A The upshot of that case is when -- if  
15 there's a transfer out of a DACA type account -- in  
16 other words, if there's a transfer of funds that the  
17 debtor has no equity in, the debtor's ability and/or  
18 the trustee's ability to recover under avoidance  
19 actions is therefore limited, if not expunged, by  
20 virtue of the fact that the debtor had no equity in  
21 the funds.

22 Q Okay.

23 A Fully encumbered.

24 Q Okay. So when you say an avoidance action,

1 let's be specific. You're familiar with all the  
2 avoidance actions. Was it a preference claim? A  
3 fraudulent transfer claim?

4 A I can't remember. I can't remember which it  
5 was. It was an avoidance action.

6 Q Okay. And do you know any details  
7 about -- you said was there a -- there was a DACA in  
8 that particular case?

9 A I'm glad to -- I don't believe there was a  
10 DACA. I was talking about the fact that it  
11 was -- there was not equity in the property that was  
12 transferred. In other words, fully encumbered and,  
13 you know, I'll get you the case cite. I apologize we  
14 didn't get it to you last night.

15 Q Okay. And you said again that's from the  
16 Ninth Circuit. Do you have anything from the Fifth  
17 Circuit?

18 A Nope.

19 Q Okay. Let's talk about Judge Larson's  
20 opinion. Do you know what case that was?

21 A I haven't looked at it since I talked about  
22 it yesterday. I remember the word "immanence" or  
23 "essent." I think it was "immanence." But I don't  
24 know if that's the name of the case. But again I can

1 get that to you too. My --

2 Q Okay. Do you know sitting here --

3 A -- counsel will get it to you actually.

4 Q Okay. Do you know sitting here today, the  
5 same questions you just answered about the Ninth  
6 Circuit case. Do you know any underlying facts? Do  
7 you know what --

8 A I think it --

9 Q -- the claim was?

10 A Sorry. I think it was the general upshot of  
11 what I just articulated. That being that the  
12 avoidance action wasn't available in light of the fact  
13 that the debtor's interest in the asset had no equity.

14 Q Okay. And the same question back to you.  
15 Was there a DACA involved in that matter?

16 A I do not think so, but I'm not positive. I  
17 can't remember.

18 Q Okay. Do you know if that was a preference  
19 claim or a fraudulent transfer claim?

20 A It was an avoidance action, I believe.

21 Q But you don't know which one it is?

22 A I can't remember.

23 Q Okay. And you relied upon these two  
24 defenses -- being the Ninth Circuit and Judge Larson's

1 opinion -- in your business judgment?

2 A That was involved in my business judgment.  
3 Yes.

4 Q Okay. And so I asked you a question and  
5 you -- that I said had they -- do you know what  
6 defense Prosperity has actually asserted in a pleading  
7 filed with the court?

8 A I'm not positive sitting here right now  
9 unless you want to show me the pleading.

10 Q Okay. Well, let me ask you this. If they  
11 asserted a good faith defense, what does that mean to  
12 you?

13 A That they took -- they took the funds in  
14 good faith without -- just the typical good faith  
15 defense you would raise. That I'm just a good faith  
16 recipient of funds.

17 Q Okay. Are you familiar with 550(b)(1)?

18 A I don't have it in front of me. I don't  
19 have it memorized.

20 Q Okay. Well, then let me ask you just  
21 generally. You've prosecuted avoidance actions and  
22 fraudulent transfer claims for 30 years. Correct?

23 A I have.

24 Q Okay. Is it your understanding that a good

1 faith defense is a good faith for value? Or just good  
2 faith?

3 A I'd have to go look at the code section.

4 Q Give me one second. Okay. Would you have  
5 any reason to dispute that 550(b)(1) says the trustee  
6 may not recover --

7 A Can I go get my code if we're going  
8 to -- I'll get the code and we'll read the code  
9 together.

10 Q Sure.

11 A You want to tell me where you are?

12 Q 550(b)(1).

13 A 550(b)(1). Okay.

14 Q Okay. "The trustee may not recover under  
15 Section (a)(2) of this section from a transferee that  
16 takes for value, including satisfaction or securing of  
17 a present or antecedent debt, in good faith, and  
18 without knowledge of the voidability of the transfer  
19 avoided." Is that what it says?

20 A That's what it says.

21 Q Okay. So again, I certainly didn't want you  
22 to read the code. I'm asking you: A good faith  
23 defense for a fraudulent transfer is someone that  
24 takes in good faith for value. Isn't that your

1 understanding?

2 A Yes.

3 Q Okay. So then the next question that I have  
4 for you is do you believe Prosperity gave value?

5 A I'm going to take the position that it did  
6 not because I want to preserve this cause of action.

7 Q Okay. I'll make it easier. In both your  
8 draft complaint that you sent to Prosperity and in  
9 your filed motions, you have both -- you say the  
10 trustee asserted that Prosperity gave no value to the  
11 debtor. Is that correct?

12 A That's what I just -- yes. That's what I'm  
13 saying. We're preserving --

14 Q Okay. And you sat through in Prosperity  
15 Bank corporate rep's deposition last week. Correct?

16 A Yes.

17 Q And did you hear that corporate rep answer  
18 no to the question of what value did you -- did give  
19 any -- did the Bank give any value to Goodman  
20 Networks?

21 A Yes.

22 Q Okay. Given in light of your position in  
23 the motion and the Prosperity Bank's deposition, can  
24 you sit here today and say that Prosperity Bank has a



1 defense under 550(b)(1)?

2 A I'm not going to spoon-feed a potential  
3 target such an admission. I do not believe they have  
4 good faith value defense for value.

5 Q Okay. That's all I needed.

6 A The danger of this exercise here.

7 Q Is it a close call about that defense?

8 A No. I don't think so, but.

9 Q All right. Mr. Seidel, let's move forward  
10 to the second part of your motion. And for the sake  
11 of clarity, if I say the motion, I mean motion 1, 2,  
12 and 3 in total. I'm not specifically talking about  
13 one specific. Otherwise, I will identify motion 1, 2,  
14 or 3. Okay?

15 A I've got the Trustee's Second Amended Motion  
16 in front of me, which is the one pending. So just  
17 tell me what you want to know.

18 Q Okay. We can look at the Second Amended  
19 Motion. So is it correct, the only difference between  
20 the trustee's second motion and the trustee's third  
21 motion was the removal of a global release for  
22 Prosperity Bank?

23 A Correct.

24 Q Okay. There was no changing of monetary

1 figures?

2 A Correct.

3 Q Okay. So in the Trustee's Seconded Amended  
4 Motion, so if the -- when I say the subject funds,  
5 that is the 4.46. Let's just call it "four four" for  
6 the sake of identifying it. That is the money that is  
7 currently sitting at Prosperity Bank. Correct?

8 A Correct.

9 Q Okay. And that is the funds that you have  
10 agreed to take a \$150,000 surcharge out of. Correct?

11 A Correct.

12 Q Okay. And as part of your motion, if you've  
13 got the Second Amended Motion in front of you, I  
14 believe the statement is in there. If you want to go  
15 to page 6.

16 A Do you have it as an exhibit so my counsel  
17 can see it too? You got it?

18 MR. RUKAVINA: I've got it.

19 THE WITNESS: You've got it.

20 MR. HILLYER: Sure.

21 THE WITNESS: He's got it. He's got it  
22 he said.

23 MR. HILLYER: No. You're right, Mr.  
24 Seidel. We should probably introduce it.

1 MR. LANGLEY: The Second Amended?

2 MR. HILLYER: The Second Amended

3 Motion.

4 MR. LANGLEY:: Okay. Let me introduce  
5 it. Give me a second. This will be Exhibit 22 and  
6 it's introduced.

7 (Exhibit 22 was marked for  
8 identification.)

9 MR. RUKAVINA: He said page 6?

10 THE WITNESS: I don't remember where he  
11 was going. He said something six.

12 We've got it. We're ready.

13 BY MR. HILLYER:

14 Q Okay. Just looking generally, before we go  
15 into this. So clearly you know that FedEx and ARRIS  
16 have provided you both their objection and an analysis  
17 in which the objecting creditors contest the fact that  
18 the bondholders are secured and perfected in the  
19 subject funds?

20 A Yes.

21 Q Okay. And you understand that?

22 A Yes, sir.

23 Q Okay. And you understand the bondholders  
24 conversely have asserted that they are secured,

1 perfected, and unavoidable in the subject funds?

2 A Yes.

3 Q Okay. And in your motion it states "The  
4 trustee after extensive review of the issues and  
5 only" --

6 A Can you tell me where you are?

7 Q In the middle of page 6.

8 A I heard you say 6, but I never heard what  
9 you're saying. Okay. I apologize for interrupting  
10 you. You're on page 6?

11 Q It's paragraph 16 continued from page 5.

12 A I'm with you.

13 Q Okay. Smack in the middle. "The trustee  
14 after extensive review of the issues and only as part  
15 of the proposed settlement in the form of the proposed  
16 order agrees that the collateral agent's liens and  
17 security interest in the subject funds are perfected  
18 as part of the overall consideration for the proposed  
19 settlement in order to avoid the large risk, large  
20 costs, and extensive delays that would result from  
21 litigating the issue and in order to pay down the  
22 collateral agent's secured debt."

23 A That's what it says.

24 Q Okay. So you have had -- you and your

1 counsel have had extensive conversations with FedEx  
2 over the perfection issue of the subject funds.  
3 Correct?

4 A Yes.

5 Q Okay. And I believe you have called it a  
6 close call. Is that correct?

7 A Yes. It's difficult. Yes.

8 Q Again, Mr. Seidel, close versus difficult is  
9 different. Did you call it a close call?

10 A Close call.

11 Q Okay. And the way the numbers work out  
12 right now, Mr. Seidel, is of the 4.4 million dollars  
13 less the \$150,000 surcharge, that is a 97 percent to 3  
14 percent split of the subject funds. Correct?

15 A Correct.

16 Q Okay. And I believe we've already  
17 extensively gone through it that the \$150,000  
18 surcharge has almost all -- all of those funds have  
19 been spoken for, for administrative fees and costs at  
20 this point. Correct?

21 A Most likely.

22 Q Okay. Well, sitting here today, do you  
23 believe that one dollar of that 150 is going to any  
24 pre-petition unsecured creditor?

1 A I wouldn't think so.

2 Q Okay. So how is the 97 to 3 splitting of  
3 the subject funds with the surcharge reflective of a  
4 close call?

5 A It really factors in more on the costs,  
6 delay, risks of litigation, and finding counsel to  
7 litigate on and on.

8 Q Okay. So the percentage split is not  
9 reflective of the close call regarding the perfection  
10 issue?

11 A You have made that point. Yes, sir.

12 Q Okay. And you just said finding counsel.  
13 And are you talking about pursuing litigation?

14 A Yeah. In the instance that we take your  
15 approach of pursuing litigation.

16 Q Okay. So let's talk about the close call.  
17 Tell me what in your opinion -- what is the close call  
18 that you are assessing when it relates to this issue?

19 A Whether or not the bondholders remain  
20 secured pursuant to various interests they have in the  
21 account as-is, where-is, now at Prosperity.

22 Q Okay. And like I said, FedEx has provided  
23 you their analysis as to that. And the bondholders  
24 have provided you their analysis as to that issue.

1 Correct?

2 A Correct.

3 Q Okay. And you have your own analysis.

4 Correct?

5 A Correct.

6 Q Okay. And so I'm trying to rectify is the  
7 cost of the litigation and the risk factors that you  
8 just articulated such as the finding counsel. Okay?  
9 If the settlement was not approved, I believe you  
10 said, those would be the factors that you would  
11 consider trying to avoid.

12 A I don't believe that's what I said. What I  
13 said was all of this goes into the settlement that we  
14 came up with. I mean, all of what I just mentioned.

15 Q Okay. Let me just ask you a general  
16 question.

17 A Sure.

18 Q When you have a fraudulent transfer claim  
19 and let's say that somebody has a defense to it, and  
20 you think it's a close call, have you ever settled  
21 something for 97/3?

22 A I don't believe so.

23 Q Okay. Why are you doing this now?

24 A In light of the benefit of paying down

1 creditor. In light of the amount in controversy, the  
2 expense, the delays. Trying to find counsel to handle  
3 such a matter and trying to move the case forward.

4 Q Okay. How many times approximately have  
5 counsel for FedEx and ARRIS asked you not to pursue  
6 this motion and to allow them to pursue it for the  
7 benefit of the estate and unsecured creditors?

8 A Now that's an interesting question you just  
9 asked. Can you ask that question one more time?

10 Q Sure. How many times have FedEx and ARRIS  
11 counsel asked you to withdraw this motion?

12 A They've asked me to withdraw this motion.

13 Q How many times?

14 A I'm sure more than a couple.

15 Q Okay. And we went through this yesterday.  
16 FedEx and ARRIS are the overwhelming majority, if not  
17 almost supermajority, of the unsecured pre-petition  
18 filed claims?

19 A Correct.

20 Q Okay. Why are you not taking into account  
21 the wishes of FedEx and ARRIS as it relates to this  
22 claim of the estate?

23 A Because I don't understand. I'm trying to  
24 do a reasonable settlement here.



1 Q Okay. Do you understand the position that  
2 FedEx and ARRIS do not think it's reasonable related  
3 to the subject funds because they are going to receive  
4 zero dollars out of the subject funds?

5 A I do understand that they believe it's not  
6 reasonable because they're going to receive zero  
7 dollars.

8 Q Don't you think a close call would  
9 have -- or is normally resolved in some range other  
10 than 97/3 percent?

11 A I would hope so.

12 Q Why were you only able to get the estate  
13 or -- why were you only able to get a \$150,000  
14 surcharge?

15 A That was the lawyers for myself, the estate,  
16 and Prosperity, and negotiations back and forth.  
17 That's all we could get.

18 Q Give me one second.

19 A I said Prosperity. I meant bondholders.

20 Q Mr. Seidel, why not recover the 4.4 million  
21 dollars from Prosperity and fight about the lien  
22 priority or who is entitled to the funds at a later  
23 point?

24 MR. RUKAVINA: Objection.

1 Hypothetical. Assumes facts not in evidence.

2 A I don't know how I could do that.

3 Q Okay. Well, didn't you just recover money  
4 in the AMRR settlement last week in which the  
5 bondholders asserted a lien?

6 A Yes.

7 Q Okay. And didn't you ask the court to  
8 recover -- to authorize you to recover that money and  
9 then everyone reserve their rights and fight about it  
10 later?

11 A Yes. I did.

12 Q Okay. Why are you not doing that now?

13 A Because Prosperity and the bondholders have  
14 indicated that they would fight such a matter, and  
15 it's going to be expensive and we're administratively  
16 insolvent.

17 Q Okay. Explain that. The bondholders would  
18 fight it how?

19 A They would say that that money is theirs.

20 Q Didn't they just do that in AMRR?

21 A They did.

22 Q Okay. And they objected?

23 A They and you objected. Yes.

24 Q Okay. And what was the outcome of that?

1 A We took the money into the estate. And  
2 we'll sort it out later.

3 Q Okay. So I'll ask you again. How was that  
4 any different than what you're doing right now?

5 A I think it's a -- I think their claim in  
6 this instance is a little different.

7 Q How so?

8 A Because I think the judge is going to have  
9 to get into all the intricacies of all the arguments  
10 that are being articulated here. The bondholders will  
11 be screaming for their money to try -- Prosperity will  
12 be also wanting releases. And the bondholders would  
13 not agree to that transaction. So I've got another  
14 fight on my hands.

15 Q Okay. So --

16 A I'm trying to -- I'm trying to --

17 Q So I believe you listened to the Prosperity  
18 deposition. Didn't you hear the corporate  
19 representative say they just want to pay the money to  
20 someone?

21 A I did hear that.

22 Q Okay. So why aren't you that someone?

23 A Because they're not going to do anything  
24 unless the bondholders consent.

1 Q Prosperity is not going to turn over the  
2 money unless the bondholders consent to the turnover  
3 of the money?

4 A Correct. They're not going to -- they're  
5 not going to hand the funds to me in light of the  
6 bondholders saying it's their money. And the  
7 bondholders have made it abundantly clear they want  
8 their money now -- yesterday -- and they will fight to  
9 the ends of the earth to grab it now if not yesterday.

10 Q And again but doesn't that threat also still  
11 hang out there on the AMRR?

12 A The threat, we've wired around that by  
13 virtue of the fact that the money is going to come  
14 into the estate on the AMRR, and we'll see what's  
15 what.

16 Q Let's go back to -- have FedEx and ARRIS  
17 asked you to allow them to take over this litigation  
18 against Prosperity?

19 A No. They --

20 Q FedEx --

21 A Go ahead.

22 Q FedEx and ARRIS's counsel have not asked you  
23 to allow them to pursue the 548 claims against  
24 Prosperity Bank for the Prosperity payments and

1 subject funds?

2 A The way it went forward was I suggested to  
3 FedEx and/or ARRIS that they could buy the cause of  
4 action if they wanted. I think at the time it was  
5 like 150 grand. No progress on that front.

6 I offered to deputize them and engage them  
7 as special counsel, your firm, you and Mr. Langley.  
8 That was not something that y'all were interested in  
9 doing on behalf of the estate.

10 Q All right. Well, let's go in order.

11 A I'm answering your question. Then we talked  
12 about -- let's talk about doing some kind of  
13 arrangement because you guys said this is the easiest  
14 adversary in the history of the world. It should be  
15 able to be done for 50 grand. I said okay. Y'all do  
16 it for 50 grand. Y'all wouldn't do it for 50 grand,  
17 FedEx and ARRIS.

18 You came back at 150 grand, from what my  
19 recollection was, to do the easiest adversary laydown  
20 in the history of the world. Maybe 200. I can't  
21 remember, but 150 in that range is what you wanted for  
22 legal fees you thought.

23 In addition, you wanted the lion's share of  
24 any proceeds and were also unwilling to protect the

1 estate to make sure we have the same deal or at least  
2 as good a deal as we have right now which is \$350,000  
3 coming into the estate.

4 ARRIS and FedEx were unwilling to do that.  
5 They wanted the estate to take the risk, and they  
6 wanted to end up with the lion's share in the event  
7 there was a recovery. And frankly, I haven't struck  
8 claims. I don't know how in the world Federal Express  
9 is owed \$80,000,000. I don't know what that's all  
10 about. And I hopefully never have to get into that.

11 But I know sitting here today they filed a  
12 claim for that amount. And I'm not looking into that  
13 right now. I know the way the creditor body sits.  
14 It's as you described. But to answer your question,  
15 there was a lot of bells and whistles and conditions  
16 pursuant to my suggestion that you guys step in and  
17 take it forward and/or buy the cause of action.

18 Q All right. Thank you. I was not trying to  
19 cut you off. I was trying to go part by part so we  
20 don't have to go back.

21 So all of that you just said was probably  
22 discussions over a period from May to the present.  
23 It's been at least four months of discussions.  
24 Correct?

1 A It's been ongoing discussions for months.  
2 That's fair to say.

3 Q Okay. And let's start about the first offer  
4 that you said is you said you offered for FedEx and  
5 ARRIS to buy the claim. Correct?

6 A Correct.

7 Q Okay. And your offer was for FedEx and  
8 ARRIS to pay you, the estate, \$100,000 for the claim?

9 A I don't remember if it was 100, 150.  
10 Something in that range, sir. And then you would have  
11 the beautiful claim that you're so enamored with  
12 without having to share with anyone else.

13 Q Okay. And FedEx would pay you a hundred, a  
14 hundred and fifty thousand dollars. And then FedEx  
15 and ARRIS would go pursue it and keep all the money?

16 A I can't remember. I think there was a  
17 split. I'm trying to remember. I'd have to go back  
18 and look.

19 Q Okay. Well, let's look at Document 1143.

20 MR. LANGLEY: Exhibit 23.  
21 (Exhibit 23 was marked for  
22 identification.)

23 THE WITNESS: We don't have it yet I  
24 don't think.

1 MR. HILLYER: It's up there.

2 MR. LANGLEY: It's published now.

3 MR. HILLYER: Exhibit 23.

4 THE WITNESS: Okay.

5 BY MR. HILLYER:

6 Q All right. Just go to the second page which  
7 is 1143.

8 A Wait. There's a big deletion on the -- we  
9 can't see.

10 Q I believe that's your redaction.

11 A Okay. Okay. I just wanted to make sure  
12 that everybody knew that there was a big redaction.

13 MR. RUKAVINA: 113? 1143? There it  
14 is. Can you blow it up?

15 MR. LANGLEY: Sure.

16 THE WITNESS: Okay. Okay. I'm with  
17 you.

18 BY MR. HILLYER:

19 Q Okay. You proposed trustee withdraws the  
20 9019. FedEx and ARRIS get standing to sue Prosperity  
21 and the bondholders on a 544 strong-arm and the  
22 Genesis transferees. But for the benefit of the  
23 estate and all flowing through the estate.

24 A Right.



1 Q You pay \$100,000 to the estate to compensate  
2 the estate for the 9019 consideration.

3 A Right.

4 Q Your fees and costs are paid off the top,  
5 and you are paid a success fee of 15 of the  
6 proceeds --

7 A Yeah.

8 Q -- to be applied to your debts. Okay?

9 A As you know there was a lot of -- a lot of  
10 back and forth, a lot of negotiation. We were  
11 trying -- I was trying to work -- we were trying to  
12 work together to see if we could come up with a  
13 concept. But yes. This has refreshed my recollection  
14 on that first -- what may be the first offer. I don't  
15 recall.

16 Q Okay. And I would ask you, Mr. Seidel, did  
17 you agree that's a far cry from selling the claim for  
18 \$100,000 in which they benefit?

19 A True. I -- I got overexcited there. Sorry.

20 Q It's all right. So look at line item 3.  
21 You pay \$100,000 to the estate to compensate the  
22 estate for the 9019 consideration.

23 A Right.

24 Q Okay. And this is May 4th.

1 A Right.

2 Q On May 4th, you had agreed to a \$100,000  
3 surcharge with the bondholders. Correct?

4 A Correct.

5 Q Okay. And so you were asking FedEx and  
6 ARRIS to come out of pocket -- not from the recovery,  
7 but to come out of pocket -- \$100,000 to pay you for  
8 the surcharge that you were being guaranteed by the  
9 bondholders in the 9019?

10 MR. RUKAVINA: I'm going to object to  
11 this line of questioning. This is -- I don't  
12 understand what relevance this has to anything  
13 regarding the settlement discussions. We're not  
14 trying this on September the 28th. You're making a  
15 strong-man argument just for the future on argument.

16 You're here to ask this witness factual  
17 questions about his business judgment and the 9019. I  
18 suggest you go back to that. Your clock is ticking.

19 MR. HILLYER: All right. Thank you for  
20 that objection.

21 You can answer, Mr. Seidel.

22 THE WITNESS: I was asking for  
23 the -- that the parties to protect the estate to the  
24 tune of \$100,000. Yes.

1 BY MR. HILLYER:

2 Q Okay. So sitting here today, are you still  
3 willing for FedEx and ARRIS to take over the  
4 litigation against Prosperity Bank?

5 MR. RUKAVINA: He's not going to answer  
6 that question. This is not a negotiation. This is a  
7 deposition. We can move on. We're not going to  
8 answer that question.

9 THE WITNESS: We're having a phone  
10 call. Why are we doing this -- deposition.

11 MR. RUKAVINA: You can't answer that  
12 question without invading your own work product.

13 Move on, please, Cam.

14 MR. HILLYER: I'm sorry. What is the  
15 objection?

16 MR. RUKAVINA: The objection is, one,  
17 that that is utterly irrelevant because this is a  
18 deposition. This is not a transcribed negotiation.  
19 And, two, he can't answer that question without  
20 invading work product and his strategy.

21 You want to have a phone call? We can  
22 have a phone call. But I'm really going to start  
23 stopping this deposition if you're going to be asking  
24 about settlement discussions that have no relevance to

1 the hearing at hand.

2 MR. HILLYER: Respectfully, this entire  
3 discussion since the beginning has been all settlement  
4 discussions because this is a settlement motion. And  
5 everything that factored into his business judgment of  
6 who he settled with and this email you produced.

7 And I guess I would ask that question.  
8 Why did you produce this email to us if it's not  
9 relevant? I don't understand.

10 MR. RUKAVINA: You're --

11 MR. HILLYER: We can move on.

12 MR. RUKAVINA: Was I not required by  
13 your RFPs to produce all communications with all  
14 parties? You are now asking him about -- you are  
15 asking him about questions as to a potential  
16 settlement that he did not take which was, I believe,  
17 a 408 communication.

18 You can ask him about that if you want.  
19 I'm reminding you your clock is ticking. And I'm  
20 reminding you that this is not relevant for the 28th.  
21 But if you keep asking him to negotiate with you on  
22 the record, I will stop this deposition.

23 You're incurring \$5,000 in combined  
24 hourly fees here for the lawyers to negotiate with the

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1 man on the record. That is inappropriate.

2 BY MR. HILLYER:

3 Q Now I'm going to ask the questions. You  
4 sent this email offer. I'll ask you an easiest  
5 question. Are you still in negotiations with FedEx  
6 and ARRIS on this topic?

7 A Am I still in negotiations with FedEx and  
8 ARRIS? I haven't heard from them in a long time with  
9 regard to negotiations.

10 Q What does that mean, Mr. Seidel?

11 A We had spoken about concepts of how to  
12 obviate this hearing and protect the estate.

13 Q Okay. As early as this week. During this  
14 week we had discussions.

15 A Yeah. Yeah. So --

16 Q Okay. That's fine.

17 A If you'd let me finish, I'm always open to  
18 discussions. Always. I mean, if somebody wants to  
19 walk in here and guarantee me something or protect the  
20 estate, et cetera, not abandon to this cause of action  
21 to two creditors.

22 Q Again, I'll rephrase it. I'm not trying --

23 A Go ahead.

24 Q I'm not trying to open settlement

1 negotiations right now. I'm just asking --

2 MR. RUKAVINA: You've blown that door  
3 open. I'm sorry. You've blown that door open.

4 THE WITNESS: You just asked me the  
5 question of would I do this deal?

6 MR. HILLYER: Davor, you're not the  
7 deponent. That's not even an objection. You're just  
8 talking. Please don't do it. You can hold all of  
9 your objections.

10 MR. RUKAVINA: Why don't we take --

11 MR. HILLYER: I'm just asking --

12 MR. RUKAVINA: Why don't we take a  
13 five-minute break and talk on the phone and calm down?

14 MR. HILLYER: No. I'm just asking --

15 MR. RUKAVINA: I'm going to go to the  
16 judge for a protective order. This is unprecedented.

17 BY MR. HILLYER:

18 Q I'm asking are you opposed -- because it's  
19 one of the factors to consider, are you opposed at  
20 this point for FedEx and ARRIS taking over this  
21 litigation that they've asked you to let them take  
22 over? That's all I'm asking.

23 A Am I opposed to letting them take over the  
24 litigation?

1 MR. RUKAVINA: What? For no  
2 consideration?

3 THE WITNESS: For no consideration and  
4 all money goes to them? I mean, I don't understand  
5 what you're saying. We've talked about this concept  
6 with 27 bells and whistles attached.

7 MR. HILLYER: Right.

8 THE WITNESS: I don't understand what  
9 you're proposing. If they want to take over the  
10 litigation, fund it, which was my question. You guys  
11 fund it. Are you saying they'll fund it and all money  
12 will -- and all proceeds will go to the estate and be  
13 paid out? That's something to talk about.

14 MR. HILLYER: Okay. Let's move on.  
15 Give me one second.

16 Let's take a five-minute break and come  
17 back at two.

18 MR. RUKAVINA: Let's make it ten  
19 minutes. He has to sign the AMRR docs if you don't  
20 mind.

21 MR. HILLYER: Okay.

22 THE VIDEOGRAPHER: All right. We're  
23 going off the record. The time is approximately 1:56  
24 p.m.

1 (Off the record.)

2 THE VIDEOGRAPHER: We're going back on  
3 the record. The time is approximately 2:06 p.m.

4 MR. HILLYER: Are we back on?

5 THE VIDEOGRAPHER: We are.

6 MR. HILLYER: Okay. I'm sorry. My  
7 screen froze for a second.

8 BY MR. HILLYER:

9 Q Okay. Mr. Seidel, I just have one follow-up  
10 question just for clarification of the record. You  
11 said you offered to deputize FedEx and ARRIS. And  
12 what I'm going to ask you is I'm not familiar with  
13 that term in the bankruptcy context of a Chapter 7  
14 trustee. Can you clarify what you meant by deputize?

15 A Okay. I pitched a whole laundry list of  
16 ideas that we have used before over here when  
17 creditors don't like a deal, some of which is to hire  
18 the counsel for the creditor. That's what we've done  
19 before. And that was that pitch that you referenced  
20 there that I would employ counsel. And I'm sorry. I  
21 thought we had this phone call.

22 But I would employ the counsel that FedEx  
23 and ARRIS enjoy and are confident with as counsel for  
24 the trustee. There would be a kicker off the top

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1 to -- and I don't have the deal in front of me right  
2 now because he's working on our ARRIS closing  
3 documents.

4 But there would be a kicker off the top to  
5 ARRIS and/or FedEx of 15 percent, as I recall, which  
6 is what I've done before, of any recovery. Then the  
7 attorney's fees that were incurred would be reimbursed  
8 to ARRIS counsel and FedEx counsel in pursuit of the  
9 adversary contemplated. And then the funds would go  
10 into the estate.

11 And then if it turns out the way that FedEx  
12 and ARRIS thinks it will turn out, there'll be a  
13 \$3,000,000 recovery -- three point something million  
14 dollar recovery for FedEx and ARRIS, by virtue of the  
15 fact that they're the 85 percent creditor by the end  
16 of the deal. Rough math I'm talking about.

17 But that was the concept of deputize that  
18 hey, I'll put you guys right in here unless you -- I  
19 don't understand we're not working together.  
20 That's -- but that was the concept there.

21 Q All right. Thank you. I'm trying not to  
22 interrupt you. I appreciate you going through all  
23 that. I was just trying to get the basic parameters.  
24 When you mean deputize, you mean hiring FedEx and

1 ARRIS's counsel to represent you, not represent FedEx  
2 and ARRIS.

3 And so they would be the estate filing a  
4 claim, but not through your attorneys; through  
5 different attorneys. And that's different than  
6 selling the claim that ARRIS and FedEx would be  
7 pursuing it through their own counsel. That's all I  
8 needed clarification.

9 And just one question. On that deputize,  
10 because we looked at that previous email, is your  
11 understanding about that -- and I'm using your term,  
12 deputize -- is FedEx and ARRIS would have to pay the  
13 estate some amount of money to have their attorneys be  
14 deputized? Is that correct?

15 A In this offer -- you understand everything  
16 is a negotiation --

17 Q Right.

18 A -- I was trying to protect the estate to the  
19 tune of the 100,000 that the estate stood to gain.

20 Q I understand.

21 A So yes. There would be the protection of  
22 the estate for the 100. That was that -- that was the  
23 ask. That was the ask.

24 Q I understand.

1 MR. HILLYER: All right. Adam, why  
2 don't you upload 1299?

3 MR. LANGLEY: This is Exhibit 24.  
4 (Exhibit 24 was marked for  
5 identification.)

6 MR. HILLYER: You should have it  
7 populated now.

8 THE WITNESS: Okay. Are you agreed on  
9 removing close call.

10 MR. HILLYER: Right. I apologize. I  
11 probably should have brought this up when we were  
12 talking about it earlier.

13 BY MR. HILLYER:

14 Q So this is a one-page email. This is your  
15 counsel has circulated a draft of the amended motion  
16 that's on the bottom. This date is May 16th. And I  
17 believe we've already covered that the amended motion  
18 was filed on May -- the second amended -- make sure I  
19 get my dates right. May 22nd.

20 Or I'm sorry. May 17th was your amended  
21 motion, which is motion Number 2. And this is on May  
22 16th. And it states that Eric Schaffer, who is  
23 counsel for the bondholders, adds a just one comment.  
24 They want -- and I'm going to paraphrase it. You can

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1 read it.

2 That you have put in paragraph 16 that the  
3 trustee for the purposes of this motion has reviewed  
4 the loan documents. And while the subject funds are  
5 property of the estate, the collateral agent holds  
6 perfected unavoidable first priority security interest  
7 in the subject funds.

8 Although it's a close call and hence part of  
9 the reason for the proposed settlement. And they want  
10 close call out of the motion. Do you see that?

11 A I do.

12 Q Okay. And you took it out. Didn't you?

13 MR. RUKAVINA: Show me the motion.

14 THE WITNESS: Show me the motion.

15 MR. HILLYER: Okay.

16 THE WITNESS: I remember seeing close  
17 call somewhere, but I don't remember.

18 MR. LANGLEY: Exhibit 22. It's the  
19 Second Amended Motion.

20 THE WITNESS: Okay. Second Amended  
21 Motion in -- I don't know that close call is in the  
22 Second Amended Motion.

23 MR. LANGLEY: Maybe it's the first  
24 then. This will be out there, and everybody can have

1 it.

2 BY MR. HILLYER:

3 Q So yes. So paragraph 16 is different in  
4 the -- what you're looking at is the Second Amended  
5 Motion. This email predates the First Amended Motion.

6 MR. LANGLEY: Can I introduce it?

7 MR. HILLYER: Sure. Go ahead and  
8 introduce that.

9 MR. LANGLEY: This will be Exhibit 25.  
10 It's been introduced.

11 (Exhibit 25 was marked for  
12 identification.)

13 THE WITNESS: We have it. We're  
14 bringing it up. Okay.

15 I'm glad to take your word for it that  
16 the word close is not in there.

17 BY MR. HILLYER:

18 Q Would you like to go to paragraph 16?

19 A I'll do whatever you want, Mr. Hillyer.  
20 You're running the --

21 Q Okay. I'll just ask the question. Did you  
22 take the phrase "it is a close call" out of this  
23 motion at the request of the bondholders?

24 A It would appear so.

1 Q Okay. Why?

2 A I canceled it. It was a request -- it was  
3 the request of the settling party with regard to the  
4 language in there, in the proposed 9019.

5 Q Okay. But you testified earlier that in  
6 your opinion it is a close call?

7 A I believe we were in front of a judge, Judge  
8 Larson. And judge -- I mean, judge. My counsel, Mr.  
9 Rukavina, said this is a tough one. This is close,  
10 et cetera. I mean, yes. But no. The word close is  
11 not in the motion now at the request of one of the  
12 settling parties apparently.

13 Q Okay. Mr. Seidel, let's go to your  
14 responses to requests for admission and responses to  
15 interrogatories. Give me one second to make sure.

16 All right. You should have Exhibit 26 which  
17 is your responses to the first set of requests for  
18 admissions.

19 (Exhibit 26 was marked for  
20 identification.)

21 A We're bringing it up. Okay.

22 Q Okay. And these are dated June 11, 2023.  
23 Correct?

24 A Correct.

1 Q Okay. Request 6. Are you there?

2 A I'm reading it. Okay.

3 Q Okay. And you denied that request for  
4 admission?

5 A Yes.

6 Q Okay. Is your answer the same sitting here  
7 today?

8 A I believe so.

9 Q Okay. And what authenticated record do they  
10 have?

11 A I believe there was a letter involved, an  
12 August letter from Prosperity.

13 Q Can you be more specific?

14 A It was an August letter from Prosperity --

15 Q Okay. And when you answered that  
16 interrogatory -- I'm sorry. When you answered that  
17 request for admission, were you in possession of the  
18 authenticated record you're referring to?

19 A I don't believe so.

20 Q You don't believe so?

21 A I don't believe so.

22 Q Okay. So had you seen an authenticated  
23 record?

24 A I think my counsel had. I don't -- I

1 don't -- I'm not positive.

2 Q Did you review these requests for admission?

3 A I did.

4 Q Okay. And I'll ask you the question. If  
5 your counsel had an authenticated record on June 11,  
6 2023, you would have produced that. Correct?

7 A Correct.

8 Q Okay. And if you produced no letter from  
9 Prosperity that you're referring to, then you didn't  
10 have it?

11 A That would make sense.

12 Q Okay. Help me reconcile this. If you and  
13 your counsel don't have a letter from Prosperity on  
14 June 11th, how do you have sufficient information to  
15 admit or deny that?

16 A I believe it -- I believe that was in  
17 conversations and/or with my counsel and Prosperity  
18 counsel.

19 Q So you're telling me other counsel told you  
20 that an authenticated record existed, and you relied  
21 upon that in answering request for admission?

22 A I'm trying to recall. I think that may be  
23 the case.

24 Q All right. Go to request 9, please.



1 A Request 9.

2 Q Okay. Admit that the bondholders do not  
3 have control over the Prosperity account ending in  
4 0188. Denied. Correct?

5 A Correct.

6 Q Okay. Is that still your answer sitting  
7 here today?

8 A I believe so.

9 Q Okay. Did you sit through -- oh. Strike  
10 that.

11 In the Prosperity 30(b)(6) deposition, did  
12 you hear their corporate rep state no one has control  
13 over that account except for Prosperity Bank's legal  
14 department?

15 A I may have missed that particular answer,  
16 that particular question.

17 Q Are you saying you didn't hear that?

18 A I'm saying I may have missed it.

19 Q Okay. Well, then I'll make -- I'll ask you  
20 this. Do you have any -- do you have any reason to  
21 dispute that Prosperity Bank's corporate  
22 representative stated under oath no one has control  
23 over the 0188 account except for Prosperity Bank's  
24 legal department?

1           A     The only thing I would say in response to  
2     that is the August letter from Prosperity Bank's  
3     counsel that talks about the fact that the bond -- the  
4     account is being held pending the bondholder and/or  
5     the debtor's consensual -- joint consensual  
6     instruction on what to do.

7           Q     The same letter that you did not have when  
8     you answered this request for admission?

9           A     That's right.

10          Q     Okay. Let's go -- you might want to be able  
11     to flip back that.

12                   MR. HILLYER: Let's enter the -- admit  
13     the interrogatories next.

14                   MR. LANGLEY: Exhibit 27. And it is  
15     introduced.

16                             (Exhibit 27 was marked for  
17     identification.)

18                   MR. HILLYER: 27 should pop up right  
19     now.

20                   THE WITNESS: We're bringing it up  
21     right now. Trustee's Responses and Answers to Joint  
22     First Set of Interrogatories.

23     BY MR. HILLYER:

24          Q     Okay. And look at interrogatory Number 1.

1 This is your factual basis for responses to each RFA,  
2 request for admission, that was a denial. Very bottom  
3 of the page is admission 6. And admission request 6 I  
4 will read to you so you don't have to flip back.

5 That was the "Admit that the bondholders do  
6 not have an authenticated record related to the  
7 Prosperity account ending in 0188" that you said you  
8 denied, but that you based that denial on an August  
9 letter from Prosperity Bank. Is that correct?

10 A Correct. The proposition with which the  
11 trustee does not necessarily agree and reserves all  
12 his rights and your exhibit sticker is on it covering  
13 some of the words there, but.

14 Q Oh. I apologize. We'll see if we can --

15 MR. LANGLEY: Do you want me to reissue  
16 it?

17 MR. HILLYER: Well, I can read it.

18 BY MR. HILLYER:

19 Q The letter from Prosperity informing the  
20 bondholders of the new account may be construed as an  
21 authenticated record, a proposition with which the  
22 trustee does not necessarily agree and reserves all of  
23 his rights with respect thereto. Okay?

24 A Yes.

1 Q Okay. So that is a specific reference to a  
2 letter from Prosperity. And I'll ask you again. Do  
3 you know what letter you're referring to?

4 A I believe that August letter that I've  
5 referred to before.

6 Q Okay. Do you know of more than one letter  
7 from Prosperity in August?

8 A I'm not positive.

9 Q Are you referring to an August 31st letter  
10 from Prosperity?

11 A Now that you mention that date, that sounds  
12 familiar.

13 Q Okay. And so I want to ask you this. So is  
14 it your common practice to respond specifically in  
15 interrogatories to documents that you don't have in  
16 your possession, but you're willing to make a  
17 statement under oath about?

18 MR. RUKAVINA: I object to that  
19 question. He was referring to an admission that is  
20 not filed or signed under oath.

21 BY MR. HILLYER:

22 Q Okay. I'm asking you swore to your  
23 interrogatories. Correct?

24 A I did.

1 Q Okay. And you swore to the factual basis  
2 that the letter from Prosperity informing the  
3 bondholders of the new account may be construed as an  
4 authenticated record?

5 MR. RUKAVINA: No. He swore to why he  
6 denied your admission. Come on, Cam.

7 MR. HILLYER: Okay. You've already --

8 MR. RUKAVINA: Stop trying to imply  
9 perjury. You asked him to admit or deny. He denied.  
10 And he told you why he denied.

11 MR. HILLYER: Davor, object, please, or  
12 not. But these are just speaking objections. You  
13 can't answer for him.

14 BY MR. HILLYER:

15 Q What I'm asking is, to be clear, Mr. Seidel,  
16 you didn't have the letter that you're referring to in  
17 admission 6. We can make it that -- interrogatory 1,  
18 response to admission 6, the letter that you're  
19 referring to in that response, you did not have and  
20 you had not seen?

21 A I don't know that.

22 Q Okay. If you had it or had seen it, you  
23 would have produced it. Correct?

24 A I would have instructed by counsel to

1 produce it.

2 Q Okay. Do you have any reason to believe  
3 that you had the August 31st letter in your  
4 possession, and you failed to produce it?

5 A I don't know if that -- for instance you  
6 found that there was an email from Baxter Bates, or  
7 whatever his name is, that I didn't get to you. I  
8 mean, things happen like that.

9 Q Okay. Things happen as in --

10 A That's a common practice. I've been doing  
11 this 35 years. I can't remember the last time I got  
12 interrogatories and requests for admissions in a 9019.

13 Q Okay. Well, again, I'm going to ask you.  
14 Would you agree with me that this August 31st letter  
15 that you're referring to -- and we will introduce it  
16 as an exhibit -- it's a pretty significant document in  
17 this current dispute? Is it not?

18 A It is an important document.

19 Q Okay. Do you think that you would miss  
20 producing an important document that was specifically  
21 referenced in interrogatories?

22 A I would hope not.

23 Q Okay. Give me one second.

24 MR. LANGLEY: We introduced the other

1 one, didn't we?

2 MR. HILLYER: Yeah.

3 MR. LANGLEY: It's Exhibit 16 for  
4 Prosperity. I got it.

5 MR. HILLYER: Okay. So we're going to  
6 bring up the letter that we're referencing. And it's  
7 already to be marked Prosperity 16. But I think we'll  
8 remark it as --

9 MR. LANGLEY: Trustee 28.

10 MR. HILLYER: Trustee 28.

11 (Exhibit 28 was marked for  
12 identification.)

13 UNIDENTIFIED SPEAKER: Do you want me  
14 to scroll down?

15 THE WITNESS: Yes.

16 UNIDENTIFIED SPEAKER: Do you want me  
17 to scroll?

18 THE WITNESS: Mm-hmm. Okay. We have  
19 it up.

20 MR. HILLYER: Okay.

21 UNIDENTIFIED SPEAKER: Do you want to  
22 see the attachment?

23 THE WITNESS: Sure.

24 MR. HILLYER: Are you ready, Mr.

1 Seidel?

2 THE WITNESS: Yeah. I have it up.

3 BY MR. HILLYER:

4 Q Okay. So is this the letter that you were  
5 referring to in your interrogatories?

6 A I believe so. Yes.

7 Q Okay. And I believe that in the request  
8 number 9 which I'll read to you again, which was admit  
9 the bondholders do not have control over the  
10 Prosperity account ending in 0188. You denied that.

11 And your interrogatory response was the  
12 letter from Prosperity, was referenced to the letter  
13 of Prosperity informing about the new account may be  
14 construed as an authenticated record. So now that we  
15 have the letter up is -- can you show me in this  
16 letter where Prosperity Bank gives control of the 0188  
17 account to the bondholders?

18 UNIDENTIFIED SPEAKER:

19 Signatures -- signatures.

20 THE WITNESS: "The funds will remain  
21 that secured account pending resolution of the  
22 conflicting instructions, notices, and directions from  
23 the company and controlling agent with respect to the  
24 transfer of the funds. Attached is a document showing

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1 the funds in the secured account."

2 BY MR. HILLYER:

3 Q Okay. So are you saying that line is -- you  
4 construe that line as giving control over the 0188  
5 account to the bondholders?

6 A I construe that line as yes. That I can't  
7 go grab that money.

8 Q Okay. Do you construe that line that the  
9 bondholders can go grab that money?

10 A I don't know. I'm not their lawyer.

11 Q Okay. But you construe that line that you,  
12 as trustee, cannot go grab that money? I mean, isn't  
13 that what you just said?

14 A That's what I just said.

15 Q Okay. But you're saying you're not sure if  
16 the bondholders can go grab that money. Is that what  
17 you're saying?

18 A I don't know what their appetite and/or  
19 their positions with regard to all that are. I don't  
20 know what their rights and remedies are. I'm not a  
21 banking lawyer. But I'm just telling you I can't go  
22 get it. And my --

23 Q Okay. Well -- sorry.

24 A Sorry. And at the end of my answer there,

1 it's not -- I don't necessarily agree with that.

2 Q You don't agree with what?

3 A That proposition. If you go back and read  
4 what we read before. I don't have it up. Do you want  
5 to bring it back up?

6 MR. RUKAVINA: Was it the  
7 interrogatory?

8 THE WITNESS: Mm-hmm.

9 MR. RUKAVINA: Do you remember what  
10 exhibit it is?

11 THE WITNESS: No. I don't remember  
12 what exhibit it was.

13 MR. RUKAVINA: Twenty-seven.

14 THE WITNESS: Twenty-seven.

15 MR. RUKAVINA: Is that it?

16 THE WITNESS: Yeah. There it is. The  
17 proposition. The letter from Prosperity informing the  
18 bondholders. What we read before. May be construed  
19 as an authenticated record, a proposition with which  
20 the trustee does not necessarily agree and reserves  
21 all rights.

22 BY MR. HILLYER:

23 Q All right. So I'll rephrase that. Do you  
24 believe this August 31st letter is an authenticated

1 record?

2 A I'm not sure that it is.

3 Q Okay. Do you sitting here today believe  
4 that this letter gives the bondholders control over  
5 account 0188?

6 MR. RUKAVINA: Objection to the extent  
7 that calls for a legal conclusion.

8 A They have some control.

9 Q What control do they have?

10 A They can prevent me from grabbing the money.

11 Q Okay. So their control was to prevent you.  
12 But do they have any ability to go unilaterally  
13 withdraw funds from 0188?

14 A I'm not a banking lawyer. I don't know.  
15 I'm just telling you they have some right of control  
16 there. I can't go grab the money as if it were any  
17 debtor account. That to me is control.

18 Q Okay. So do you think that this letter is  
19 important in an analysis of the bondholders perfection  
20 in those funds?

21 A I don't know that it is.

22 Q Why would you say that?

23 A Because I don't know that it is.

24 Q Do you know that it's not? Let me -- strike

1 that. We'll rephrase it.

2 Do you think authenticated records are  
3 important in determining perfection in bank accounts?

4 A Yeah.

5 Q Okay. Do you think this letter is important  
6 in determining the bondholders perfection in a bank  
7 account?

8 A Not necessarily.

9 Q Okay. Did you or your team consider this  
10 letter in their analysis?

11 MR. RUKAVINA: I object.

12 And instruct you not to answer to your  
13 team portion of that. You can answer to the extent  
14 you considered it in your analysis.

15 THE WITNESS: I looked at the letter,  
16 but it's not, as you mentioned, an authenticated  
17 document.

18 MR. HILLYER: Can we jump off the  
19 record real quick so I can talk to Davor?

20 THE VIDEOGRAPHER: We are going off the  
21 record. The time is approximately 2:38 p.m.

22 (Off the record.)

23 THE VIDEOGRAPHER: We are going back on  
24 the record. The time is approximately 2:44 p.m.

1 MR. HILLYER: All right. Mr. Seidel,  
2 thank you for that short break. For the sake of  
3 brevity and everyone's time to make this faster, I  
4 believe we've reached a stipulation with you and your  
5 counsel. And I'll state it for the record subject to  
6 your counsel or your input.

7 There were a number of exhibits used in  
8 the Prosperity Bank 30(b)(6) conducted on September  
9 6th. A portion of those exhibits -- or a portion of  
10 those exhibits were not included in any production  
11 that we received from the trustee.

12 And we are asking the trustee to  
13 stipulate at this time that if there is an  
14 exhibit -- for example, an email from a Michelle Ross  
15 on August 18 --

16 MR. RUKAVINA: Stop. Stop. Stop.  
17 Stop. Cam, you're making this again overly  
18 complicated.

19 MR. HILLYER: Okay. Then what --

20 MR. RUKAVINA: Whatever is an exhibit  
21 to the Prosperity deposition that was not produced to  
22 you by the trustee as of June 11, 2023, was not in his  
23 possession.

24 MR. HILLYER: Okay.

1 MR. RUKAVINA: Other than  
2 possibly -- and we don't know right now -- the August  
3 31 letter. Would that work?

4 MR. HILLYER: Okay. Exactly. Okay.

5 MR. RUKAVINA: To that the trustee  
6 stipulates.

7 BY MR. HILLYER:

8 Q So with the same caveat as to the August  
9 31st letter which you're reserving your rights to some  
10 future consideration, if you did not have them in your  
11 possession or your counsel did not have them in your  
12 possession, then you could not consider any of those  
13 documents in your business judgment decision as of  
14 June 11th?

15 MR. RUKAVINA: We're not prepared to  
16 stipulate to that.

17 THE WITNESS: No.

18 BY MR. HILLYER:

19 Q Okay. Well let me ask you. If you didn't  
20 have an email, how could you consider that email in  
21 your business judgment as of June 11?

22 A Various conversations with counsel, with the  
23 parties, et cetera. We can understand the positions  
24 back and forth, what may or may not have been sent,

1 similar to other things that we considered prior to  
2 having them.

3 When people tell us their position that  
4 there's an email that's -- et cetera. And we may not  
5 have it yet. But we understand that that's their  
6 position and that's what they've told us exists,  
7 et cetera.

8 Q I understand. So I'll ask you a follow-up  
9 question including the August 31st letter or any of  
10 the other communications. Okay? Do you know of a  
11 reason why you would not have had those in your  
12 possession on June 11th?

13 A I'm not positive.

14 Q Okay. Well, let me ask it a different way.  
15 Do you usually settle a 4.4 million dollar claim  
16 without getting all of the documentation?

17 A I usually try to have the lay of the land  
18 when I do a settlement and get -- and documents,  
19 et cetera.

20 Q Okay. If you believe something is a close  
21 call, wouldn't that give you heightened scrutiny to  
22 make sure that you had all the documentation and  
23 communications necessary?

24 A Not necessarily. If somebody had a silver

1 bullet, they could send it to me. I don't have that  
2 silver bullet. People are telling me what's what.

3 Q I'm not sure I understood. What are you  
4 talking about, a silver bullet?

5 A In other words, if you've got a silver  
6 bullet that says here is the document that showed  
7 evidence of "A," and that everybody else is all wet no  
8 matter what it is with regard to the contemplated  
9 litigation, that's what is -- what I would call the  
10 critical silver bullet, email, or piece of information  
11 that you want to make sure you have.

12 All these parties were highly motivated to  
13 send us documentation to the effect that would support  
14 their position or not. And so if anyone had such a  
15 silver bullet, I would talk them and have them send it  
16 to us.

17 Q Okay. Well, then I'll ask it to you this  
18 way. Why would an adverse party send you a silver  
19 bullet as a Chapter 7 trustee?

20 A Well, because they're going to  
21 get -- they're going to have to eventually disclose  
22 any and all documents. So we operate with the people  
23 we know around here. We get the documents. It's a  
24 little more informal.



1 Q Okay. Did you send any formal document  
2 request to Prosperity Bank?

3 A I don't recall.

4 Q Okay. Do you have any personal knowledge of  
5 document requests sent to Prosperity Bank?

6 A I can't remember.

7 Q Okay. Well, I believe you just said we're  
8 going to get all that documentation. Who is going to  
9 do that, Mr. Seidel?

10 A My counsel.

11 Q Did they do that?

12 A I believe they got documents from Prosperity  
13 Bank.

14 Q Okay. When did they get -- well, let me  
15 rephrase that.

16 Your counsel received voluminous documents  
17 from Prosperity Bank when they were copied on  
18 responses to FedEx and ARRIS's request for production.  
19 So that's what I'm asking you specific is: Did you  
20 specifically or your counsel request documentation on  
21 behalf of the trustee before you did the settlement?

22 A I don't believe I did. And Ms. Funk who was  
23 running point on this matter at this time, I believe,  
24 was getting documents in from Prosperity.

1 Q Give me one second. All right. Mr. Seidel,  
2 I'm going to publish what's 1164.

3 A That's no one's published.

4 MR. LANGLEY: Exhibit 29. It is  
5 published.

6 (Exhibit 29 was marked for  
7 identification.)

8 MR. RUKAVINA: I need your help. I  
9 need your help, Adam. I lost the exhibits.

10 MR. HILLYER: Which folder did you  
11 lose?

12 MR. RUKAVINA: We got it back. It's  
13 back now. Did Adam say Exhibit 21?

14 THE WITNESS: Did you say 21?

15 MR. LANGLEY: Twenty-nine.

16 MR. HILLYER: Twenty-nine.

17 MR. RUKAVINA: Oh. Ours stops at 21.

18 THE WITNESS: We're done at 21.

19 MR. HILLYER: Are you in the Prosperity  
20 exhibits folder? Or were you in the trustee folder?

21 THE WITNESS: Where is the Prosperity?  
22 Oh. There it is. You don't see Prosperity?

23 MR. RUKAVINA: But he wants me to go to  
24 yours.

1 THE WITNESS: No. He wants to go to  
2 Prosperity.

3 MR. RUKAVINA: Oh. He wants to go to  
4 Prosperity.

5 THE WITNESS: Yeah. And then you said  
6 Prosperity documents. Right?

7 MR. LANGLEY: Y'all should be in the  
8 trustee deposition for the 13th.

9 MR. RUKAVINA: It stops at 21.

10 THE WITNESS: Twenty-one.

11 MR. HILLYER: Okay. Then I guess we  
12 need to go off the record and get it fixed. So what  
13 is the last exhibit --

14 MR. RUKAVINA: Cam, does anyone else  
15 have it -- or is just my lack of knowledge?

16 MR. HILLYER: I don't know. If anyone  
17 else can respond.

18 UNIDENTIFIED SPEAKER: I have Exhibit  
19 29 up in front of me.

20 MR. RUKAVINA: Then the problem is on  
21 my side.

22 UNIDENTIFIED SPEAKER: I have 29 up.

23 MR. RUKAVINA: Give us a second. Yeah.  
24 Let's go off the record so we're not burning any of

1 his time.

2 THE VIDEOGRAPHER: We're going off the  
3 record. The time is approximately 2:54 p.m.

4 (Off the record.)

5 THE VIDEOGRAPHER: We're going back on  
6 the record. The time is approximately 2:55 p.m.

7 BY MR. HILLYER:

8 Q Okay. So, Mr. Seidel, this is an email from  
9 bond counsel to your counsel asking did Brenda -- I'm  
10 assuming that's Brenda Funk -- get all the documents  
11 she had requested from Victoria? And that would be  
12 Victoria Argeroplos, counsel for Prosperity Bank. And  
13 your counsel responds nothing. Do you see that?

14 A Let me look. Yes. That's what that says.

15 Q Okay. So I'm going to ask you, this is  
16 dated May 10th. This is a significant time after you  
17 had filed a settlement motion and were in negotiations  
18 with the bondholders and Prosperity. Why don't you or  
19 your attorneys have documents you've requested? And  
20 why did you go forward with a settlement when you  
21 didn't get documents you requested?

22 A I think my counsel did have documents.

23 Q Okay. Then help me understand "nothing."  
24 Your counsel --

1 A I'd have to ask Mr. Rukavina. I don't know.  
2 I wasn't in that email. I'm not copied on that email.

3 Q Okay. What's your understanding of that  
4 email?

5 A I don't have an understanding of that email.

6 Q Okay. Do you think it's a very complex  
7 sentence to say did trustee's counsel get all the  
8 documents you had requested from Prosperity, and the  
9 answer is nothing? Doesn't that lead you to believe  
10 that your counsel received nothing they had requested?

11 MR. RUKAVINA: Objection.

12 A No.

13 MR. RUKAVINA: Speculation.

14 A No. Maybe they were requesting something  
15 more particular, more precise, more -- one document or  
16 another that they're looking for. I don't know. I  
17 wasn't there. I'm not even copied on this. So go  
18 ahead. I mean, I'm sure we can get the phone and you  
19 can talk to Mr. Rukavina, and he can walk you through  
20 what that means.

21 Q Okay. So what is your understanding of the  
22 documents that you had on May 10th? Do you know?

23 A We had a laundry list of documents.

24 Q Okay. Generically, what are they?

1 A I don't know.

2 Q Okay. So sitting here today, you don't know  
3 what you had?

4 A I cannot recall what all documents we had on  
5 the date specific that you mentioned from Prosperity.  
6 What all documents we had exactly, et cetera. Now if  
7 you want me to -- well, no. Never mind.

8 Q And do you know what any specific documents  
9 that you would have requested but not received at this  
10 point that would have been referenced in this letter?

11 A I don't recall what that would have been.

12 Q Give me one quick second.

13 MR. RUKAVINA: Cam?

14 MR. HILLYER: Yes. We're --

15 MR. RUKAVINA: Can we take a restroom  
16 break in the next 15 minutes, please?

17 MR. HILLYER: Yeah. We're going quick  
18 now. All right.

19 Okay. Let's bring up the second  
20 request for admission and the second set of  
21 interrogatories.

22 MR. LANGLEY: Want to put up at the  
23 same time?

24 MR. HILLYER: Sure. Go ahead and

1 publish them both at the same time so we can go back  
2 and forth.

3 MR. LANGLEY: Exhibit 30 is being  
4 introduced. It's the second set of  
5 interrogatory -- or second set of RFA responses.

6 (Exhibit 30 was marked for  
7 identification.)

8 And Exhibit 31 is being introduced.  
9 It's the second set of interrogatory responses.

10 (Exhibit 31 was marked for  
11 identification.)

12 Both are published.

13 THE WITNESS: Okay.

14 BY MR. HILLYER:

15 Q Okay. Look at request for admission 22.

16 A Okay.

17 Q So, Mr. Seidel -- hold on. So this request  
18 is basically admit that you did not have the August  
19 31st letter from Prosperity prior to entering the  
20 proposed settlement and the -- and you denied it. Is  
21 that still your answer today?

22 A I'm not positive. But I don't see where it  
23 says August 31st here. But it says the letter from  
24 Prosperity. But --

1 Q Okay. Well, then clarify. That quoted  
2 language is from your previous response.

3 A Right.

4 Q I believe we've clarified the letter from  
5 Prosperity is the August 31st letter?

6 A Okay.

7 Q Okay. Did you have a copy of that August  
8 31st letter when you entered into the proposed  
9 settlement that you presented? And the proposed  
10 settlement is defined as beginning at motion 1, March  
11 22nd.

12 A Wait a second. What? Where is it?

13 Q Hold on one second.

14 MR. LANGLEY: I can pull it up if you  
15 want. It would be faster.

16 BY MR. HILLYER:

17 Q Okay. Well, let's go to -- the proposed  
18 settlement, I believe, is defined as at this juncture,  
19 is you going through motion 1 and motion 2. Okay?  
20 And so I guess my question is, is let's use at each  
21 motion, you denied that you had -- that you didn't  
22 have that letter. Okay?

23 And I guess what I'm asking you is did you  
24 have that letter on March 22nd when you filed the



1 motion? The motion 1?

2 A I'm not positive.

3 Q Okay. Did you have that motion -- did you  
4 have that letter when you filed the second motion on  
5 March 22nd?

6 A I'm not positive.

7 MR. RUKAVINA: March? You mean May  
8 22nd?

9 MR. HILLYER: May 22nd. That's  
10 correct. I apologize.

11 THE WITNESS: I'm not positive.

12 BY MR. HILLYER:

13 Q Okay. Request Number 23. Admit that you  
14 did not investigate whether the letter informing the  
15 bondholders in their account is an authenticated  
16 record prior to entering the proposed settlement.  
17 Same question. Did you investigate the August 31st  
18 letter prior to March 22nd?

19 A I believe so. I --

20 Q Okay. How did -- I'm sorry. I apologize.

21 A Ask me the question again, would you?

22 Q Okay. How did you investigate it if you did  
23 not have it?

24 A If I didn't have it, I wouldn't have

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1 investigated.

2 Q Okay. Well, let me ask you a general  
3 question. Is it possible to investigate an email or a  
4 communication or a letter if you are not in possession  
5 of it?

6 A Yes.

7 Q How is that?

8 A You can hear about it. You can have  
9 conversations about I sent you a letter to this  
10 effect. Here's what it says basically, that this and  
11 this happened, et cetera.

12 Q Okay. And so again, Prosperity Bank and the  
13 bondholders are adverse parties to you that you're  
14 settling with?

15 A Correct.

16 Q Okay. So again I ask is, you were taking  
17 their oral statements and investigating oral  
18 statements rather than documents or communications?

19 A I think we can do all of the above.

20 Q Okay. Request 24. Admit that you did not  
21 investigate the nature of the Prosperity account  
22 ending in 0188 prior to entering the proposed  
23 settlement. Denied. Is that still your answer today?

24 A Yes.

1 Q Okay. And so how did you investigate  
2 account 0188 prior to March 22nd?

3 A Conversations with counsel, my counsel,  
4 their counsel.

5 Q Okay. Motion 1 and motion 2 you called it  
6 an escrow account. Do you recall that?

7 A I'm not positive. You can show it to me.

8 Q Well, I guess I'm asking you is, when did  
9 you become aware that it is actually a bank account  
10 with a number?

11 A I don't recall.

12 Q 0188.

13 A I don't recall the exact date it had been.

14 Q Okay. Did you know that before you filed  
15 motion 1 on March 22nd?

16 A I believe we did.

17 Q Why would you call it an escrow account  
18 rather than call it a bank account and use the number?  
19 Why would you do that in a motion?

20 A I would think it would show that that's how  
21 the parties were treating it.

22 Q Do you think it's an escrow account?

23 A Sitting here today?

24 Q Yes.

1           A     I don't think it's an escrow account sitting  
2     here today.

3           Q     Okay. Do you think it's a deposit account?

4           A     I'm not positive. I'm not a -- I'm not a  
5     bank lawyer.

6           Q     Okay. Did you hear the bank representative  
7     call it a deposit account?

8           A     I did.

9           Q     Okay.

10                   MR. RUKAVINA: Remember that restroom  
11     break coming up soon, Cam.

12                   MR. HILLYER: I know I promised it to  
13     you. I'm looking at my clock. I'm trying to finish  
14     up.

15                   MR. RUKAVINA: I know. Just find a  
16     convenient spot. I don't want to stop you in the  
17     middle of a line of questions.

18                   THE WITNESS: Do you mind if I sign  
19     these documents while you look for the page --

20                   MR. HILLYER: Sorry?

21                   THE WITNESS: I'm going to sign these  
22     documents while you're looking.

23                   MR. HILLYER: Oh. Please.

24                   THE WITNESS: Okay. But I'm ready for

1 you whenever you say.

2 BY MR. HILLYER:

3 Q One more question, Mr. Seidel, and I think  
4 we're done. The second set of interrogatories and the  
5 second set of requests for admission are both dated  
6 8/25/23.

7 A I think that's right.

8 Q Okay. And on the same date, counsel for  
9 FedEx and ARRIS received a letter from your counsel  
10 stating that with respect to non-privileged documents  
11 and communication responsive to the request, the  
12 trustee has no new documents and communications to  
13 produce separate and apart from what he previously  
14 produced. Is that your understanding to be correct?

15 MR. RUKAVINA: Let's pull up the  
16 letter.

17 MR. HILLYER: Okay.

18 MR. RUKAVINA: I can find the letter,  
19 or you can put it up on the --

20 MR. HILLYER: I'll put it up.

21 MR. LANGLEY: Tell me something about  
22 it.

23 MR. HILLYER: It will be  
24 third -- second set RFP.

1 MR. LANGLEY: Okay. It's ready.

2 MR. RUKAVINA: Okay. He said it's  
3 coming. Is that 32?

4 THE WITNESS: Thirty-two?

5 MR. RUKAVINA: Yeah. There it is.

6 BY MR. HILLYER:

7 Q I'm literally just looking just at the first  
8 paragraph. It's just, for the record, that you stated  
9 that you had no new documents to produce in the second  
10 RFP. And that any document that you came into your  
11 possession is the result of the production of  
12 Prosperity.

13 I was just asking you confirm is everything  
14 that you gave us on June 11th to the request for  
15 admission, that is all the documents that you  
16 independently obtained and anything else would have  
17 been obtained from production from Prosperity. Is  
18 that correct?

19 A First of all, I didn't say anything. I'm  
20 not even copied on this. So when you say you, my  
21 counsel sent this letter and that might be a fair  
22 rendition of what you're referring to paraphrasing  
23 that paragraph.

24 Q Okay. And your counsel is responding on

1 your behalf to a request for production of documents?

2 A That's right.

3 MR. HILLYER: Okay. Mr. Seidel, thank  
4 you so much for yesterday and today. And I'll pass  
5 you to Mr. Schottenstein.

6 MR. RUKAVINA: Let's go on break?

7 THE WITNESS: My pleasure.

8 MR. HILLYER: Oh. Yeah, yeah. I  
9 promised Davor. Yeah. Let's go off the record and  
10 take a quick break.

11 THE VIDEOGRAPHER: We're going off the  
12 record. The time is approximately 3:13 p.m.

13 (Off the record.)

14 THE VIDEOGRAPHER: We're going back on  
15 the record. The time is approximately 3:29 p.m.

16 MR. SCHOTTENSTEIN: All right. Thank  
17 you, Mr. Seidel.

18 And for the reporter, this is Noah  
19 Schottenstein for ARRIS.

20 EXAMINATION

21 BY MR. SCHOTTENSTEIN:

22 Q I've got just a few broad narrative  
23 questions here for you, Mr. Seidel.

24 A Yes, sir.

1 Q So I would just, kind of -- I'd like you to  
2 walk me through, you know, how you think this  
3 settlement is going to impact your administration of  
4 the estate. Like what are the practical consequences  
5 of this from your view?

6 A We're going to get \$350,000 in. We're going  
7 to pay down secured debt substantially to the tune of  
8 4.4-ish. We're going to avoid a massive fight by and  
9 among bondholder, Prosperity, and the administratively  
10 insolvent estate.

11 And we're going to be able to focus our  
12 efforts on the folks that created this mess for all  
13 the creditors. And we've been very distracted with  
14 this deal.

15 Q So I guess my question -- one of my  
16 questions here -- is why this fight now? I mean, have  
17 you explored ways to table this until, you know,  
18 you've had a chance to look at, you know, some of the  
19 more evident bad guys? You know, the Frinzi and  
20 Goodman, et al.?

21 A We're moving on all fronts, you know, which  
22 you hate to do. And I'm glad to have any kind of  
23 strategy session with you off or on the record. And I  
24 don't want this out there for the world. But we are



1 moving on all fronts against the bad guys.

2 With regard to tabling this, the bondholders  
3 have been more than insistent that this matter move  
4 forward, or they're going to bring it to the court's  
5 attention which would gin all this up. Prosperity  
6 obviously is not going to do anything at this point in  
7 time with regard to any of this.

8 So it's just I hear what you're saying on,  
9 you know, hey, why don't we just kick this to the curb  
10 and go do other matters. But this was a matter was  
11 there. It's ripe. It's ready to go. Let's pay  
12 creditors. Let's get money in.

13 Let's continue -- continue to march against  
14 the bad actors is what I'd like to do. That's  
15 generally without trying to divulge a lot  
16 of -- because like I said --

17 Q Sure. And I don't want any specifics about  
18 that, of course.

19 A Yeah. Of course.

20 Q And so I guess my question then following on  
21 from that is after the first motion, the objection,  
22 and this got more complicated, why not -- and I guess  
23 I want to -- you know, I'm not asking for  
24 conversations with your counsel.

1 But I want to know, did you consider just  
2 letting the bondholders file their objection and  
3 letting everyone else fight it out?

4 A That was a consideration. Yes.

5 Q Okay. And so what -- I'm really just -- I'm  
6 trying to understand here. What have you -- in the  
7 past, have you encountered these types of situations  
8 before? What's your experience with this specific  
9 with -- you know, with this type of, you know, I'd  
10 call it an interpleader in an ordinary district court  
11 sense.

12 You know, can you tell me about similar  
13 situations you've had in the past about being between,  
14 you know, two different parties like this.

15 A In my career, and I'm getting to be an old  
16 man. Everybody reminds me all the time. I've never  
17 seen anything like this with regard to a 9019 kind of  
18 a Rambo -- not you, sir. But kind of, the venom. And  
19 I don't understand it. For the life of me, I don't  
20 understand the apparent ignoring of the cost and  
21 expense of all of this.

22 You're asking me if I've experienced this  
23 before. So I'm telling you I have not seen anything  
24 like this ever. Never even heard of it. But it just,

1 for me, I don't understand. I don't understand it.  
2 But it is where it is. You know, I've tried to move  
3 the matter forward.

4 I would hope that we've got a motion pending  
5 now that is there for approval, and is there for  
6 anyone to shoot at that can come up with a better  
7 concept for the estate albeit someone wanted to buy  
8 the action that benefits the estate and perhaps  
9 benefits themselves. That's greatness. And that, I  
10 think, would be a great answer trying to move that  
11 ball forward.

12 If someone wants to step up and fund it,  
13 that would be a great answer and would change dynamics  
14 perhaps. So filing this motion is pushing the matter  
15 forward, pushing things forward, so that we're not  
16 languishing. I'm supposed to be liquidating assets  
17 and moving balls forward.

18 So I don't know if that answered your  
19 question, sir, but that's, kind of, you're  
20 getting -- getting some knee jerk reaction from me.

21 Q Sure. And so, I guess, does it -- what's  
22 your -- I'm sorry. Strike that.

23 A Yes, sir.

24 Q You know, in your experience as a Chapter 7

1 trustee, how many cases have you seen where  
2 the -- where estimated -- you know, again I  
3 understand, you know, you haven't done your claims  
4 analysis yet. But where it looks like you've got such  
5 a heavy concentration of two creditors at the top of  
6 the claims pool.

7 A Yes.

8 Q Can you tell me about other cases you've had  
9 with a similar set-up?

10 A Yeah. There was a case called Terra, and we  
11 had some other cases, Jupiter. And Terra had a 99  
12 percent creditor body. We had some others like that.  
13 And, you know, sometimes they're on board, and  
14 sometimes they're not. And to give deference to  
15 reasonable views.

16 And you know, for example, in this scenario  
17 here, the AMRR deal. I'm scratching my head on that.  
18 I did not understand the objection. It didn't make  
19 financial sense to me to object to that. I don't  
20 understand it. But again I pushed -- pushed forward  
21 to try to get money in here and save a melting ice  
22 cube so to speak.

23 So to answer your question, you know,  
24 sometimes it might be other dynamics at play that I

1 can't make sense of for the -- for the benefit of the  
2 estate. Sometimes people want to roll the dice  
3 because it's not enough.

4 In other words, we do a settlement. The  
5 creditor body doesn't think it's enough. Hey, go  
6 swing for the fences. You guys go do all the work.  
7 You guys go expend all the money. You guys take all  
8 the risk because there's not enough in this for me at  
9 the end of the day.

10 And you know, like you know, good old Judge  
11 Emerson [ph] used to say, you can fund it or you can  
12 buy it. And whether that's the 99 percent creditor or  
13 whatever. So I'm sorry. I, kind of, just went off  
14 there.

15 Q Sure. So do you want to tell me -- again  
16 have you -- you know, you mentioned the Jupiter case.  
17 So you know, what happened in that case that's  
18 relevant to what happened here with AMRR -- sorry.  
19 Not AMRR. Strike that. ARRIS and FedEx?

20 A It was a -- it was a very, very ugly  
21 involuntary petition. A lot of money went out and,  
22 you know, we were in charge of going forth and trying  
23 to make sure that creditors were paid and to the  
24 extent we could.

1 And so the similarity is creditors were very  
2 anxious to, you know, turn over every rock. And we  
3 brought lots of actions. But then at the end of the  
4 day we did a settlement. It was fair and reasonable  
5 in the mind of the judge. And so it got approved. I  
6 guess it's why that one jumped to my mind.

7 Q And how much was in dispute there?

8 A It was millions. I can't remember.

9 Q Just you know, ballpark it for me.

10 A I think 45, 50 million. Something like  
11 that. I --

12 Q Okay. And you --

13 A Sorry.

14 Q And were your creditors on board there?

15 A My creditors in that instance were not on  
16 board with anything for a long while. And as time  
17 went by at the end of the day once the deal came  
18 around they were -- they ended up being silent.

19 Q All right. And can you tell me have you  
20 ever had any previous experience with this type  
21 of -- you know, administering this type of secured  
22 asset? I'm talking about the subject funds just to be  
23 clear here.

24 A I was just going to go back to Jupiter for a

1 second. But let me hear your question again.

2 Q No. Sorry. If you want to, go forward with  
3 Jupiter. I'm wondering about that one as well. Sure.

4 A That one had an interesting dynamic as well  
5 because it's a little bit like the AMRR deal. There  
6 was a bunch of oil sitting in a refinery. First, you  
7 know, just like these involuntary cases that you're  
8 familiar with, the debtor's counsel tells me there's  
9 nothing here.

10 And then it pops up on the schedules that  
11 there's millions of dollars worth of oil in a refinery  
12 down near Houston that supposedly belonged to the  
13 debtor. So there was a big wrestling match over that  
14 as we're trying to unearth everything and figure out  
15 everything.

16 And of course, with my luck, the judge  
17 wanted us to sell oil. And one day it went negative  
18 and it, kind of, went to garbage. But there was a lot  
19 of moving pieces and a lot of angry creditors. Angry  
20 creditor disputes like we're seeing here between FedEx  
21 and the bondholders. I don't know so much about  
22 ARRIS. But that's another part of that.

23 But I don't know that that's that germane to  
24 what you're asking, but I thought it was relevant. So

1 I'm sorry. Your next question?

2 Q Actually, you mentioned it. Let me just  
3 explore that. Tell me about you said there was an  
4 inter-creditor dispute similar in the Jupiter case?

5 A Well, there was creditors fighting over the  
6 oil much like -- you know, now the reason it popped in  
7 my mind is we had, kind of, a tripartite fight over  
8 whose oil it was, whether it was the people that were  
9 storing it; whether it was the supplier of the oil; or  
10 whether it was the debtor's oil.

11 And so it was everyone was upset much like  
12 here. Everyone was upset. You know, bad actors that  
13 left everybody high and dry much like here. And --

14 Q So tell me. How did that play out? Just  
15 from the beginning --

16 A Yeah. I'm sorry.

17 Q No. From the beginning, right? You know,  
18 day one or, you know, whatever that first day is you  
19 realized you're -- you know, there's this disputed  
20 oil. Lots of people are asserting rights to it. Walk  
21 me through, you know, how you got from, you know,  
22 start to finish on that dispute.

23 A Well, my practice is -- we haven't worked  
24 together a lot, sir, but my practice is to get on the



1 phone with the impacted parties and try to understand  
2 where everybody is coming from and form some kind of  
3 consensus and not have litigation. I mean, I  
4 just -- I don't know.

5 I'll tell you I've been doing this so long  
6 and I try at all costs to avoid the litigation trap  
7 because I know how expensive and the risk of it and  
8 the delays of it. And so I've just seen much go  
9 wrong.

10 So to answer your question, I try to get on  
11 the phone with everyone and especially if you've got  
12 some major creditors like that are impacted in that  
13 scenario and see if reasonable minds can prevail to  
14 try to obviate a bunch of attorney's fees being spent.

15 And honestly I typically bend over backwards  
16 to try to do that. But the end result on that one was  
17 we brought some litigation. We're trying to settle  
18 litigation still to this day. We've mediated. We've  
19 brought litigation.

20 It got very ugly again just like other cases  
21 do, protracted and expensive, because like you know  
22 the people that skate with this stuff -- with the  
23 money -- now they have money to fight you with. So we  
24 continue to fight. And we fight and fight and fight

1 until the other side eventually throws in the towel.

2 When --

3 Q So how long did you --

4 A I'm talking about the bad guys on that.

5 Q Yeah. How long did it take you to work that  
6 out?

7 A I don't know. A few years. Two years  
8 unfortunately. And I really tried to get everybody to  
9 work together to sell that oil right away when oil was  
10 going down. It wasn't at zero and it wasn't negative.  
11 But I could not get a consensus until the judge said  
12 enough. We're selling it today even though oil is  
13 negative, so. It kind of all went into the wall.

14 Q All right. So tell me about your experience  
15 administering intangible assets. You know, how many  
16 cases or how often do you see these types of accounts?

17 A The types of accounts that we have here with  
18 the DACA and all of the rigamarole with regard to  
19 that, we don't see that a lot.

20 You know, the typical scenario, sir, is  
21 that, you know, the bank account is in the debtor's  
22 name. Trustee sends demand for the turnover of funds.  
23 It comes unless it's at the bank that's claiming a  
24 security interest and then we have a little wrestling

1 match, et cetera.

2 But the scenario we had here is not an  
3 ordinary scenario for sure. And this whole scenario  
4 with take the money, put the money back, we've looked  
5 into that. My lawyers have researched it. It's a  
6 matter of first impression like we've talked about  
7 apparently.

8 Q All right. So tell me about your  
9 administration of other secured assets. What's the  
10 most common thing that you administer?

11 A The most common thing I administer, you  
12 know, I swim in the shallow water a lot of times.  
13 We'll have a business that shuts down. It may -- the  
14 bank may have a lien on some collateral that may have  
15 equity in it. We sell that, disburse out, go on down  
16 the road. Things like that.

17 Then we'll look at, you know, preferences,  
18 fraudulent transfers, et cetera -- D&O policies.  
19 Things like that. So to answer your question, that  
20 would be a pretty standard case.

21 Q Okay. And do you have a standard process or  
22 procedure that you use, you know, when you're looking  
23 at administering a secured asset?

24 A Yeah. Making sure that there's return to

1 unsecured creditors in the deal. Carve-outs for the  
2 unsecureds. And making sure that that's -- you know,  
3 the professionals are protected. The auctioneer, that  
4 he doesn't get burned. Things of that nature.

5 Q All right. And so how do you go about  
6 valuing something that looks like it's secured as a  
7 matter of your general business practice?

8 A Well, now in the scenario that I was  
9 mentioning, I would get the auctioneer in there and  
10 say what do you think we're going to get at the end of  
11 the day after your expenses? And he would give me a  
12 number.

13 And I would tell the bank that that's what  
14 the number looks like, but we've got to make sure  
15 we've got sufficient funds for unsecureds and for  
16 auctioneer, et cetera. So we've got to do carve-outs  
17 to make sure that happens. That would be a typical  
18 scenario if that's not too general.

19 Q Am I correct in understanding based on your  
20 earlier testimony that you have not done that here  
21 with respect to the bondholders' claims?

22 A I'm not sure I understand that question.

23 Q So have you engaged in some sort of  
24 valuation process with respect to the bondholders?

1 You know, they're asserting they're secured to some  
2 extent and from what I recall -- and I apologize. I  
3 was not involved in the case at the early stage here.

4 But there was some sort of change from them  
5 looking to be oversecured to then being under-secured.  
6 You testified about that, I believe it was yesterday.

7 A Yes, sir.

8 Q Yes. So can you tell me how that evolved?

9 A Oh, my gosh. Quite the -- quite the mess.  
10 Let me try to get you where I think you're going, and  
11 you can let me know if I'm responding.

12 Initially in this case there was all kinds  
13 of hanging fruit one of which was this transfer with  
14 regard to AMRR by the insiders of the debtor after  
15 they basically helped themselves to \$44,000,000, Mr.  
16 Frinzi, 38 of which went to this AMRR aspect. And so  
17 there was an offer on the table on that for  
18 22,000,000. We had a handshake deal on that.

19 It was early in the case. We had millions  
20 in various other venues supposedly. And so everything  
21 was looking pretty rosy. And then that picture  
22 changed by virtue of the fact that Frinzi did not pay  
23 a dollar on the \$44,000,000 note, et cetera. And we  
24 had to sell it as you know the other day. So that

1 dynamic changed with regard to the bondholders and the  
2 estate.

3 Q So is it your view now that there is no, you  
4 know, risk that the bondholders are oversecured, and  
5 thus would be incurring attorney's fees and interest  
6 or, you know, all the other things that are 502 that  
7 you get for being oversecured?

8 A Yeah. Never say never, you know. But I  
9 don't see -- I don't see it now sitting here today. I  
10 did initially, and I don't now. So that's a change  
11 that I've mentioned to everyone. And I'm glad to  
12 mention to you.

13 Q Okay. And so I'm looking at this deal now,  
14 this settlement. And what is your projected return  
15 for unsecureds on this on the current value of the  
16 deal, assuming this third motion goes through?

17 A I don't know. I don't know what it would  
18 be, if any.

19 Q All right. Do you have a sense of your  
20 current attorney's fees on the matter?

21 A I'm sure it's astronomical. I'm sure it's  
22 high. This has been a very, very litigious case.  
23 There's a lot going on.

24 Q But today you haven't sat down and looked at

1 that to your recent recollection?

2 A I'm sure it's in -- I'm sure it's  
3 \$1,000,000. Here again, you know, I hate to start  
4 showing the world what's going on and the targets,  
5 et cetera. But I'm glad to visit with y'all off the  
6 phone or on the phone or on the record. However, you  
7 want to go.

8 Q Okay. Yeah. I'm not asking for, you know,  
9 anything specific here.

10 A I hear you.

11 Q I'm just trying to get a sense of --

12 A I hear you. I just hate -- some of this  
13 stuff on the record.

14 Q Sure. Sure. I understand that. And so  
15 what -- have you assessed whether there are any  
16 collateral -- well, strike that. I also -- sorry. I  
17 want to phrase this not to draw an objection from  
18 Davor here.

19 A He's ready. He's like --

20 Q I know he is.

21 A He is.

22 Q I'm trying to bring down the temperature a  
23 little bit this afternoon.

24 A Yeah. He's much mellower right now.

1 Q All right. Without saying what they  
2 are -- all right? I'm not asking for specifics. But  
3 I do want to know whether you've assessed, you know,  
4 the different potential litigation options and other  
5 recovery actions, you know, for this estate.

6 Like, has that occurred? I don't need -- I  
7 don't want you to disclose, you know, other potential  
8 defendants besides, you know, the Frinzis and Goodmans  
9 we've talked about here.

10 MR. RUKAVINA: Are you asking about  
11 other causes of action related to the Prosperity funds  
12 or any and all claims the estate might have?

13 MR. SCHOTTENSTEIN: Any and all claims.  
14 BY MR. SCHOTTENSTEIN:

15 Q Any and all claims. And again, I'm not  
16 asking -- I'm not asking you to list them out. But I  
17 want to know, you know, what kind of work have you  
18 done on those -- you know, on the other parts of this  
19 case?

20 A Yes. We've looked into many, many avenues  
21 of recovery and potential litigation. Yes, sir.  
22 Many, many.

23 Q Okay.

24 A We're moving forward -- we're moving forward



1 on several. I don't know if you're monitoring those  
2 or not, but. And I don't know -- you know, it's funny  
3 these days whether or not it always hits the general  
4 case when we file an adversary. For instance, you  
5 know, the recent adversary we filed, whether or not  
6 that's hitting the major case.

7 Q Okay. Well, I mean, I'm aware there's some  
8 shell corporation lawsuit y'all just filed.  
9 Without -- you know, again, I don't want you to tell  
10 me targets. But you know, can you give me a rough  
11 estimate of, you know, what you're looking at in terms  
12 of numbers of actions?

13 A Can you repeat that question?

14 Q So about how many different actions are  
15 y'all looking at outside of I know there's a newly  
16 filed one against the shell company? And again I  
17 don't want you to -- I'm not trying to solicit, you  
18 know, who the targets are of course. But can you give  
19 me a rough estimate of how many different actions you  
20 are looking at for this case?

21 A At least ten if not more.

22 Q Okay. Can you give me a rough estimate of  
23 what the estimated recovery is on those cases?

24 A I --

1 MR. RUKAVINA: That's very dangerous.  
2 We can, I think, talk about that offline. That's very  
3 dangerous.

4 THE WITNESS: I'm glad to visit with  
5 you about that offline. I'm happy to. In fact, I'll  
6 tell you, and we can go into some detail and all that.  
7 I'm happy to do that. But I'm just reluctant to do it  
8 on the record, I'm afraid.

9 BY MR. SCHOTTENSTEIN:

10 Q All right. I have a bunch of follow-up  
11 questions on that, but I think that's maybe best  
12 handled off the record.

13 A We are at your disposal on that. I promise.

14 Q Yeah.

15 A And if we don't -- we don't come through for  
16 you, we can come right back here. I promise.

17 Q All right. So give me just a minute here to  
18 reorganize my notes here. Sorry. One second.

19 A You're fine.

20 Q All right. So without getting into  
21 specifics of any particular claim here, you know, I'd  
22 like to hear about how you customarily evaluate  
23 litigation claims. And I guess to be a little more  
24 specific, you know, I guess my real question here is,

1 you know, how do you or if you do market test them at  
2 all.

3 A I sometimes market test things in terms of I  
4 see if lawyers want to come in and handle matters for  
5 the estate on a contingency basis and/or whether or  
6 not there's a funding possibility and/or someone wants  
7 to buy a cause of action for a price.

8 Q And so have you explored all of your  
9 customary steps with respect to the dispute with  
10 Prosperity and the subject funds?

11 A Yes, sir.

12 Q Okay. Can you tell me how many claim  
13 sellers did you speak to?

14 A To --

15 MR. RUKAVINA: You mean claim buyers.

16 THE WITNESS: Claim buyers you mean?

17 MR. SCHOTTENSTEIN: Sorry. Yes. Yes.  
18 Sorry. Thanks. Claim buyers.

19 THE WITNESS: I spoke to a couple.

20 BY MR. SCHOTTENSTEIN:

21 Q And I'm not looking for specifics, but you  
22 know, I want to confirm that the people you spoke  
23 with, you know, are appropriate and customary buyers  
24 for this type of claim. Are, you know, the people

1 that you shopped this to -- I mean, have you ever  
2 successfully sold claims to them before?

3 A That's a fair question. I may have  
4 misspoken now that I'm thinking about claims buyers.  
5 I don't know that I've -- the claims buyers I was  
6 mentioning or that stuck in my mind there -- it's  
7 getting late -- are more in line with the AMRR deal  
8 than with regard to this piece of litigation.

9 I don't know that I've sold litigation to an  
10 independent third party before. I'm trying to  
11 remember if I've done that, Counsel. Typically, it's  
12 the parties that are involved in the case that come  
13 through and want to buy the litigation or produce  
14 someone that wants to buy the litigation.

15 Q Okay. What about litigation funding?

16 A I spoke with litigation funding early on.  
17 You could ask me the name. I could get it for you.  
18 I'm glad to do that. I've never done that, had any  
19 success in that. And lawyers I've spoken to on the  
20 litigation funding told me you'd better hang onto your  
21 wallet when you do that because they're going to grab  
22 up all your assets.

23 And sure enough that litigation funding  
24 group wanted liens on all our recoveries, D&O,

1 anything they could possibly get to make sure that  
2 they come out okay at the end of the day. And then  
3 they went away when I said I can't. I can't do that.  
4 So that's the litigation funding experiment. And I  
5 don't know if you want me to go to the third.

6 Q Before you do, just have you ever done  
7 litigation funding with anyone before?

8 A I've done -- yes. I've done it. Typically  
9 when I've done it, sir, it's been the creditors that  
10 have stepped up as I proposed in this deal and funded  
11 their lawyers to take the matter forward in litigation  
12 funding agreements. I've done several of those.  
13 That's why I tried that here.

14 And have had some real success in getting  
15 that done because it appeases the creditor. The  
16 creditor is putting their money where their mouth is.  
17 And they're comfortable with their counsel, and  
18 they're highly motivated because they've been scammed.

19 And so it really facilitates everything.  
20 And that's why I was hopeful I could get that done in  
21 this instance. And it's been -- it's been -- it's  
22 worked really well. In fact, we got appealed to the  
23 Fifth Circuit in one of my litigation funding  
24 agreements, and we were -- the litigation funding

1 agreement was upheld by the Fifth Circuit.

2 And because the debtor and the targets  
3 didn't like the fact that we were coming for them, and  
4 they knew that they had left the estate in such a  
5 fashion that it was going to be difficult to engage  
6 counsel.

7 Q All right. Let's move on to Number 3.

8 A Yes, sir.

9 Q Continue to counsel.

10 A Right. So I spoke with my current counsel,  
11 Mr. Rukavina, and his firm. Got interested in  
12 handling it on a contingency. This is a little too  
13 big for my little shop -- favorite lawyer in town so  
14 I'm not obviously interest in it.

15 I spoke with the Passman & Jones firm. Not  
16 interested. I spoke with the Neligan firm. Not  
17 interested. Spoke with the Quilling firm. Not  
18 interested. Spoke with -- oh, God. I can't remember.  
19 Keith Aurzada. I can't remember the name of his firm.

20 MR. RUKAVINA: Bryan Cave.

21 THE WITNESS: Bryan Cave. Not  
22 interested. And then he --

23 MR. RUKAVINA: Actually, he --

24 THE WITNESS: Okay. I can't remember

1 what firm, but. And I'm not sure of others. Oh,  
2 yeah. I offered to the Butler Snow firm to handle on  
3 a contingency basis. Not interested. I think  
4 that's -- I think that's the lay of the land on that.

5 BY MR. SCHOTTENSTEIN:

6 Q All right.

7 A Also I asked Butler Snow to provide me  
8 somebody if they would do it on a contingency basis.  
9 They do trustee work. Crickets. Nothing. Zero.  
10 Nada.

11 Q Okay. So can I ask why -- my, kind of,  
12 final question here is, you know, as this thing has  
13 continued to blown up -- I mean, look. I'll just be  
14 frank with you, Scott. Like you know, I  
15 personally -- you know, we're kind of deeply concerned  
16 about, you know, the deepening administrative  
17 insolvency here.

18 You know, and I think, you know -- I hope,  
19 you know, you agree with me, there comes a point where  
20 the juice isn't worth the squeeze, so to speak.  
21 Correct?

22 A Sometimes.

23 Q Sometimes. Yeah. Just as a general  
24 principle. Right?

1 A That's correct.

2 Q All right. And you know, and given that,  
3 you know, FedEx and my client both are deeply  
4 concerned about, you know, how this is going and  
5 again, you know, the impact on the estate, you know,  
6 have you, you know, actually, you know, sat down and  
7 considered whether it's even worth continuing to push  
8 this?

9 Or just to, you know, let it go and let  
10 everyone else fight about it?

11 A That consideration always is in play.

12 Q Have you in the past ever, you know, put the  
13 brakes on midway, so to speak?

14 A Depends the scenario. What's going on, so.

15 Q Can you tell me about any experiences in the  
16 past that you've had where you have, you know, pulled  
17 out after, you know, starting a process where it just  
18 seemed like it was getting too expensive to maintain?

19 A You know, I don't know that. I try not to  
20 get bullied around. I try not to, you know, have the  
21 reputation of folding. If someone just tries to make  
22 our life difficult or tries to embarrass us, trying to  
23 keep what's best for the estate in mind.

24 And when I've changed direction -- the times



1 I remember -- it's for the benefit of the estate. In  
2 other words, if something comes before a court, come  
3 to the hearing. Somebody doesn't want something to  
4 happen. They think it might happen, they pay more  
5 money. Something happens. They provide lawyers.  
6 Something happens.

7 So to answer your question, I don't know  
8 that I've been -- I've been bullied out of proceeding.

9 Q Well, I certainly don't want to -- I'm not  
10 saying that you've been, you know, bullied out of  
11 anything. Right?

12 A And I'm not -- I'm not accusing ARRIS and  
13 you, sir, of doing any of that kind of thing. But  
14 anyway, I interrupted you, sir.

15 Q Yeah. You know, again, I mean, I think  
16 sometimes you start shopping something and you put  
17 some money into it. And then, you know, it seems like  
18 you're not going to get anything out of it, you know,  
19 transactionally.

20 Is that, you know -- again you take a lot of  
21 property. It looks like you may have something to,  
22 you know, build on and sell. It doesn't work out.  
23 Have you had any experiences like that? You know,  
24 just taking it out of the immediate litigation

1 context.

2 A Yes, sir. That occurs.

3 Q All right. Can you just tell me about, you  
4 know, when that's happened in the past for you?

5 A Oh. If you -- you know, if you have a piece  
6 of property that you think -- the broker thinks he can  
7 get a bunch of money for, and we're going to pay  
8 everybody and everybody is going to have a big time.  
9 And it just turns out that that's not the case.

10 And after marketing and trying it, it  
11 just -- it's not coming to be. And then you have all  
12 kinds of other issues, insurance, things of that  
13 nature come. So it becomes burdensome.

14 Q Can you name any cases specifically where  
15 that's happened?

16 A Oh, my gosh. Don't test my memory. I'm  
17 sure it has. Nothing springs to mind. But it  
18 definitely occurs. Or like, I was mentioning, you  
19 know, the other day when you send preference demand  
20 letters out.

21 Cam asked me about settling for zero. And  
22 in thinking about it last night, I was, like, yeah. I  
23 did settle some for zero. You know, I'm sure I'm a  
24 little weak or lower than some, but they provided

1 defenses and that they hadn't provided prior to the  
2 suit, et cetera.

3 And our analysis of -- the accountant's  
4 analysis pre-suit came back to be incorrect. So we  
5 settled for zero because they know that they -- I  
6 don't believe that they owed the estate monies. So to  
7 answer your question, those kinds of things happen.

8 MR. SCHOTTENSTEIN: All right. I think  
9 that's all I have on the record right now.

10 THE WITNESS: I'm glad to set up a call  
11 with you for Friday or Monday, whenever.

12 MR. RUKAVINA: I'm available most of  
13 tomorrow.

14 THE WITNESS: Most of tomorrow is  
15 pretty good with us if you want to just email. I'm  
16 glad to visit with you.

17 MR. SCHOTTENSTEIN: We can coordinate  
18 offline. That's fine.

19 THE WITNESS: Yeah. Look forward to  
20 talking to you.

21 MR. SCHOTTENSTEIN: All right. I'll  
22 pass the witness.

23 UNIDENTIFIED SPEAKER: The bondholders  
24 are not going to have any questions at this time.

1 UNIDENTIFIED SPEAKER: No questions  
2 from the Bank.

3 THE WITNESS: Are we out?

4 MR. RUKAVINA: I think we're out if  
5 we're done.

6 THE WITNESS: I appreciate everybody.  
7 It's always good to see y'all.

8 MR. HILLYER: All right. Thank you.

9 THE WITNESS: Thank you.

10 MR. RUKAVINA: We've got to  
11 order -- Thomas, are you order -- Thomas, are you  
12 there? You know how to do this better. Will you  
13 order a transcript for me?

14 MR. BERGHMAN: Yeah.

15 MR. RUKAVINA: You know how I like it.  
16 Right?

17 MR. BERGHMAN: Yep.

18 THE VIDEOGRAPHER: All right. Go off  
19 the record. This concludes the videotaped deposition.  
20 Time is approximately 4:17 p.m.

21 THE WITNESS: Thank you, Veritext.  
22 That went very smoothly. We finally figured it out  
23 after a couple days. Appreciate you.

24 MR. RUKAVINA: Other than the

1 unbeknownst to us passcode.

2 THE WITNESS: Yeah. You've got to stop  
3 the passcode though. Nobody going to sneak in there.

4 All right. See y'all.

5 THE REPORTER: All right. Thank you.  
6 So for the court reporter, every one is still on?

7 MR. HILLYER: Okay. So explain -- Mr.  
8 Guffy. Philip, you still on?

9 MR. GUFFY: Yeah. I'm here.

10 MR. HILLYER: So following back up  
11 yesterday with what, you know, we -- I guess, rolled  
12 our rough request over to this, until we got  
13 concluded. So I guess we would like a rough of the  
14 depo. And then I guess when can we have that rough?

15 THE REPORTER: Oh, gosh. I can submit  
16 the order and get that generated. I would say -- I  
17 don't want to speak out of turn. I don't know  
18 how -- I don't know how many previous volumes there  
19 are on this or this is my first day on this case.

20 But I'd be more than glad to drop that  
21 out there and try to get -- put an expedite order on  
22 that and see if we can't get it out to you ASAP.

23 MR. HILLYER: Okay. Because I think,  
24 Philip, when we asked yesterday and I think the answer

1 was -- I forgot what her name was. But, Philip,  
2 didn't you ask? You said if we order it from you now  
3 or if we order the rough tomorrow, that we could get  
4 it? But what was the answer? I'm just trying to  
5 remember.

6 MR. GUFFY: Yeah. No. I was just  
7 confirming that, you know, we could ask for the rough  
8 from today's session and also get yesterday's session  
9 included in it as well.

10 That we didn't need to ask for a rough  
11 yesterday to get yesterday's session. That y'all  
12 would have access to yesterday's session and could  
13 combine it with this session, and produce a rough  
14 transcript.

15 THE REPORTER: Okay.

16 MR. HILLYER: Right. But we didn't  
17 talk about days or anything like that.

18 MR. GUFFY: We did not talk about  
19 timing. No.

20 MR. HILLYER: Okay.

21 THE REPORTER: Yeah. I would say I  
22 would be more than glad to get the order put in there  
23 ASAP, and try to get everybody involved you know with  
24 the rough. I mean, you know, that's not an issue

1 there. I just can't speak for transcription. You've  
2 got to understand where I'm coming from. I can't  
3 speak for another department.

4 But typically they do get on these  
5 pretty quick, especially, you know -- especially if we  
6 put the -- we're scheduling everybody else on the job  
7 as far as, trying to put some pressure on this thing.  
8 But how many roughs are we going to need?

9 MR. HILLYER: FedEx and ARRIS need one.

10 THE REPORTER: Okay. ARRIS needs one.

11 MR. GUFFY: One for the bondholders.

12 THE REPORTER: Bondholders. Bear with  
13 me. Okay. Bondholders. Okay. And does FedEx need  
14 one as well?

15 MR. HILLYER: Yeah. FedEx and ARRIS.  
16 This is a joint deposition.

17 THE REPORTER: Oh. Okay.

18 MR. HILLYER: And I guess it's -- so  
19 FedEx and ARRIS need one together.

20 THE REPORTER: I'm sorry. I'm still  
21 trying to get in mind who is who in this situation  
22 because I didn't even get a notice. So bear with me.  
23 Okay. We're going to combine days and try to get a  
24 rough ASAP. And that will be two rough orders. All

1 right.

2 Okay. Anything else I can go over for  
3 you guys, while we're on the conference?

4 MR. HILLYER: Do we want to talk about  
5 if the rough? What do you think as far as -- I guess  
6 the timing on the rough affects the timing on the full  
7 transcript.

8 THE REPORTER: Right. Okay.

9 MR. HILLYER: What do you think we  
10 should do? What is an expedited?

11 Philip, what do you think? I mean, I  
12 guess we need it -- I mean, I'm trying to figure out  
13 so we don't roll over and, like, we get a rough at,  
14 you know, sometime next week. And then the real  
15 transcript --

16 MR. GUFFY: I mean, y'all are the ones  
17 who've got the filing deadline coming up. So I don't  
18 know if you were wanting to file before Monday or what  
19 your timing was.

20 MR. HILLYER: Yeah. I mean, I guess we  
21 need it expedited because we have a briefing deadline  
22 on Monday.

23 THE REPORTER: You need it by Monday.  
24 Okay.



1 MR. HILLYER: Before Monday.

2 THE REPORTER: Okay. Before. All  
3 right. I'll be sure to put that in the order as well.  
4 And I'll pass that onto the transcription. And I'm  
5 sure they can get someone on it, someone on it ASAP.  
6 And, like I said, that shouldn't be an issue for them.

7 MR. HILLYER: All right. Thank you.

8 THE REPORTER: Anything else I can do  
9 for you folks today?

10 MR. HILLYER: No, sir. Have a great  
11 day.

12 THE REPORTER: Okay. Thank you so  
13 much. All right. And we'll go ahead and sign off.

14 Thank you, sir. Appreciate you.

15 Okay. Good bye.

16 (Signature reserved.)

17 (Whereupon, at 4:17 p.m., the  
18 proceeding was concluded.)

19

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21

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24

CERTIFICATE OF DEPOSITION OFFICER

I, SHAWN BYRON HUNT, the officer before whom  
the foregoing proceedings were taken, do hereby  
certify that any witness(es) in the foregoing  
proceedings, prior to testifying, were duly sworn;  
that the proceedings were recorded by me and  
thereafter reduced to typewriting by a qualified  
transcriptionist; that said digital audio recording of  
said proceedings are a true and accurate record to the  
best of my knowledge, skills, and ability; that I am  
neither counsel for, related to, nor employed by any  
of the parties to the action in which this was taken;  
and, further, that I am not a relative or employee of  
any counsel or attorney employed by the parties  
hereto, nor financially or otherwise interested in the  
outcome of this action.



SHAWN BYRON HUNT

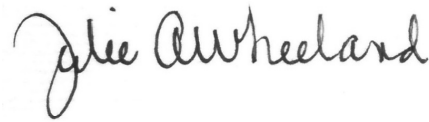
Certified Reporter in and for the

State of Tennessee

☒ Review of the transcript was requested.

CERTIFICATE OF TRANSCRIBER

I, JULIE WHEELAND, do hereby certify that  
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recording of the foregoing proceeding, that said  
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proceedings to the best of my knowledge, skills, and  
ability; that I am neither counsel for, related to,  
nor employed by any of the parties to the action in  
which this was taken; and, further, that I am not a  
relative or employee of any counsel or attorney  
employed by the parties hereto, nor financially or  
otherwise interested in the outcome of this action.



JULIE WHEELAND

1 In Re Goodman Networks, Inc., D/B/A Goodman Solutions v.  
2 Chapter 7 Trustee Scott Seidel , Vol II Job No. 6106194

3 E R R A T A S H E E T

4 PAGE\_\_\_\_\_ LINE\_\_\_\_\_ CHANGE\_\_\_\_\_

5 \_\_\_\_\_

6 REASON\_\_\_\_\_

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21 REASON\_\_\_\_\_

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24 Chapter 7 Trustee Scott Seidel Vol II Date

1 In Re Goodman Networks, Inc., D/B/A Goodman Solutions v.  
2 Chapter 7 Trustee Scott Seidel , Vol II 6106194

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Chapter 7 Trustee Scott SeidelVol II, do hereby declare that I  
5 have read the foregoing transcript, I have made any  
6 corrections, additions, or changes I deemed necessary as  
7 noted above to be appended hereto, and that the same is  
8 a true, correct and complete transcript of the testimony  
9 given by me.

10

11

\_\_\_\_\_

12

Chapter 7 Trustee Scott Seidel , Vol II Date

13

\*If notary is required

14

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15

\_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

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NOTARY PUBLIC

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drukavina@munsch.com

September 26, 2023

RE: In Re Goodman Networks, Inc., D/B/A Goodman Solutions v.

DEPOSITION OF: Chapter 7 Trustee Scott Seidel , Vol II 6106194

The above-referenced witness transcript is  
available for read and sign.

Within the applicable timeframe, the witness  
should read the testimony to verify its accuracy. If  
there are any changes, the witness should note those  
on the attached Errata Sheet.

The witness should sign and notarize the  
attached Errata pages and return to Veritext at  
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the witness fails to do so within the time allotted,  
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signed.

Yours,

Veritext Legal Solutions

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**[answer - attorney]**

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**[front - going]**

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[lion's - mean]

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Tennessee Rules of Civil Procedure

Depositions Upon Oral Examination

Rule 30

Rule 30.05: Submission to Witness; Changes;  
Signing.

When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition

may then be used as fully as though signed unless on a motion to suppress under Rule 32.04(4) the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

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